

Public Utilities

Volume 55 No. 4



February 17, 1955

MANAGEMENT LOOKS AT DEALER COMPENSATION

By Jackson Martindell

« »

Making Use of the Utility Rate Hearing

By John J. Hassett

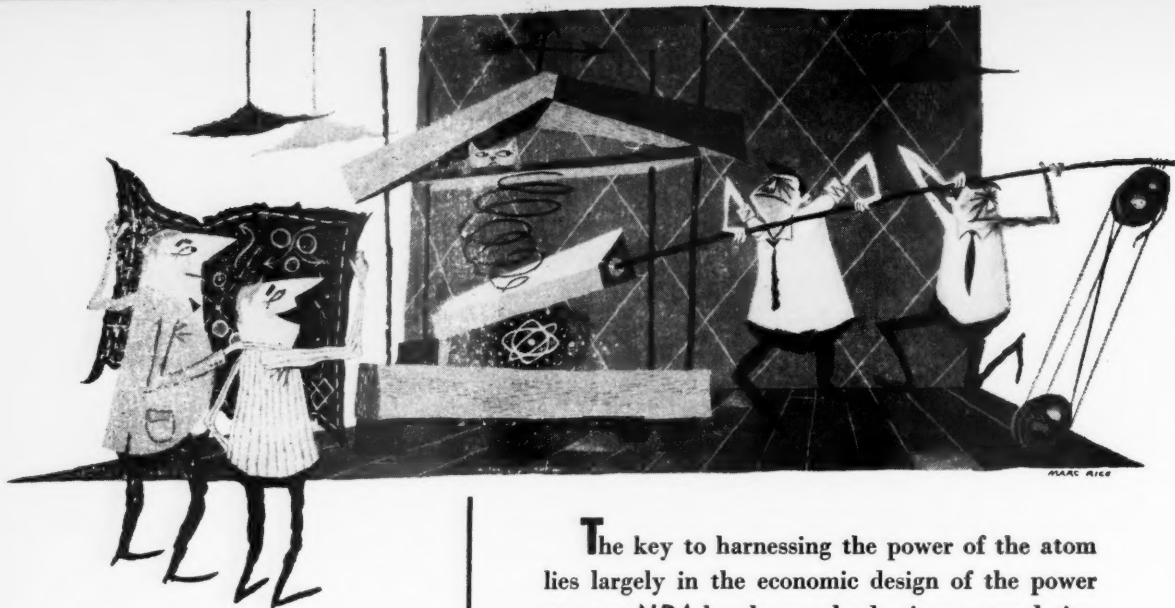
« »

Setting Up Utility Services in Greenland

By Dr. Svend Frederiksen

« »

Arguments at the FPC Gas Rate Hearings



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Public Utilities

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Pacing the nation's power

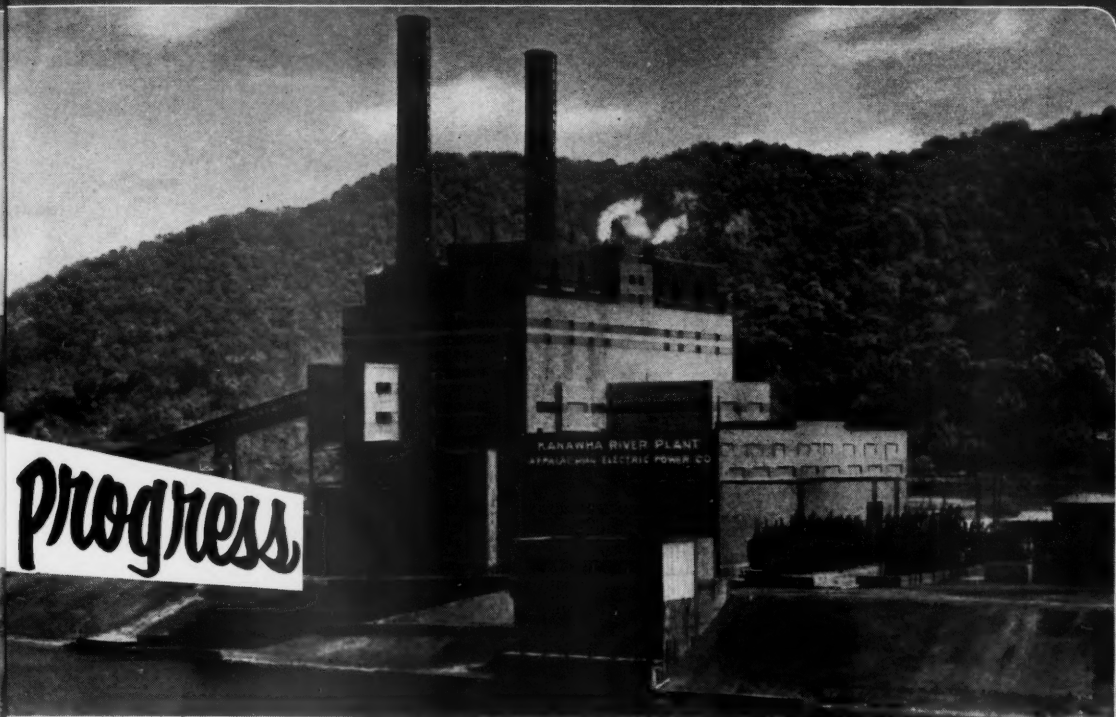
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* Federal Power Commission figures

Progress



Appalachian Electric Power Company's Kanawha River Plant on the American Gas and Electric Company System.

Headed by a record 9170 Btu per net kw-hr, these ten plants were the most efficient central stations in the country during 1953, the most recent year for which complete heat rate data are available.

Reflecting the decision of the electric companies to utilize the most recent engineering advances, even during a time of critical capacity expansion, the outstanding performance of these modern plants is a tribute to the foresight of the whole industry. It affords one more indication that the prime interest of this unique team of electric companies and their major suppliers lies in producing still lower-cost kilowatts for a still greater America.

B&W Boilers in many of these stations are designed with such advances as Pressure-Firing, Cyclone Steam Separators, Gas Recirculation and Divided Furnace Construction — features which have contributed substantially toward the outstanding efficiency levels achieved. Also, all steam generating units are equipped with reheaters, a development of major importance in improving plant efficiency.

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Among the many advantages of this important engineering advance, as utilized, for example, by the Kanawha River units, is elimination of air infiltration to reduce stack loss and assure greater efficiency. Maintenance is reduced and the use of forced-draft fans alone means easier starting, smoother operation and simpler controls. These are the reasons why more than 100 Pressure-Fired B&W units are now in service or under construction.

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The record heat rates set by these leading generating stations are closely followed by those of many more plants across the country which are producing low-cost kilowatts at efficiency levels unattainable just a few years ago. And B&W is continuing to devote its energies and its long-accumulated experience to the development of boiler designs that will contribute to still higher levels of steam generating efficiency. The Babcock & Wilcox Company, Boiler Division, 161 East 42nd Street, New York 17, N. Y.



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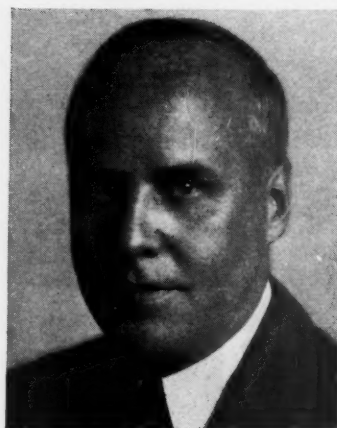
Pages with the Editors

THIS is the season when some of the old-timers among us are inclined to pooh-pooh the meager snowfalls and comparatively mild winter weather which we have been having in recent times. With a faraway gleam in their eyes, they can recall blizzards and freeze-ups in years gone by of a kind to make modern winters seem sissy stuff indeed. We have all heard varieties of these tall tales. Some New Yorkers, recalling the blizzard of '88, profess to remember sitting on the roof of the old Madison Square Garden with their feet hanging down to the top of the snow, just like in bleacher seats. New Englanders recall instances of running railroad trains over frozen lakes and rivers. The middle westerners' grandpas talk almost wistfully about being "snowbound" for a week.

UNTIL comparatively recent times, American meteorologists have been inclined to sniff at these stories. But now the followers of the cycle school of weather changes have been getting enough authority for their views as to make some of us wonder whether some of the old tales about villainous winters in the Gay Nineties might not have some basis of fact. Right now they are trying to grow cotton in Canada; barley has become a crop in Iceland; and sheep are being raised in Greenland. White birch in some of our own northern states is wilting because it needs frozen ground.

ONE of our native weather experts, Dr. George H. T. Kimble of Washington, who has been looking at the skies and through telescopes and at weather maps for years, says positively that the weather is getting warmer all over the world. Of course, the change is very gradual. But in a hundred years or so, it may affect all of us.

"WHEN you think about it," Dr. Kimble said, "even during the last 100 years there has been an increase in the annual



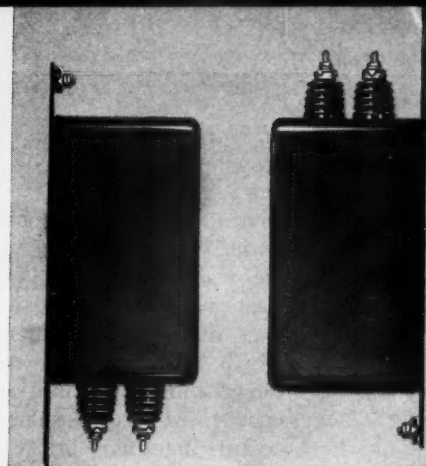
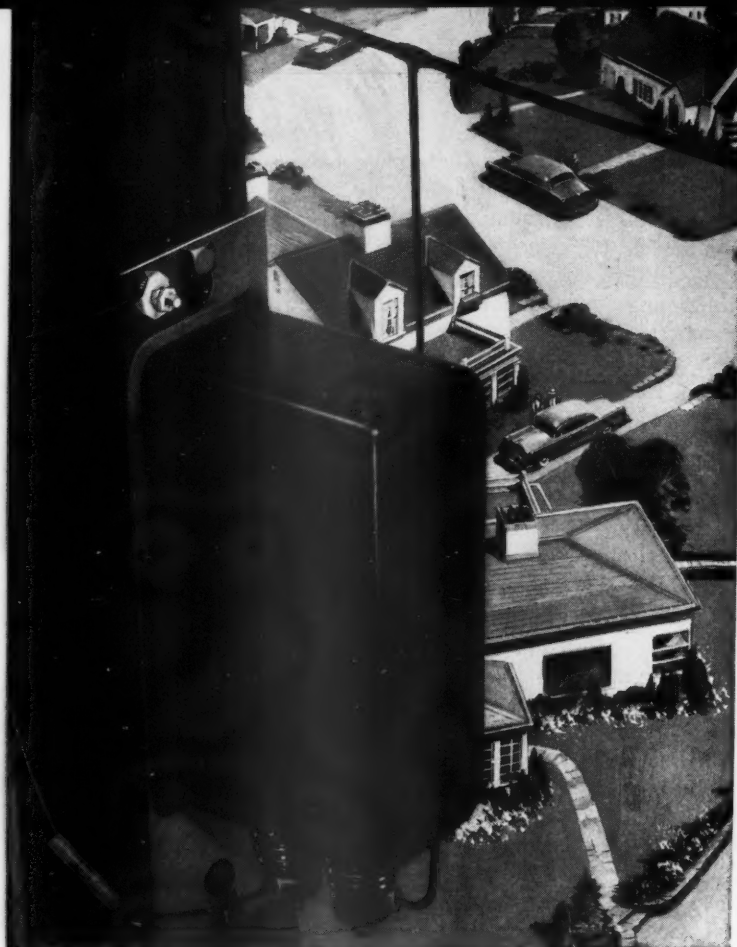
JACKSON MARTINDELL

temperature in America of at least two degrees around the shore of the North Atlantic. And up to 10 degrees in other places."

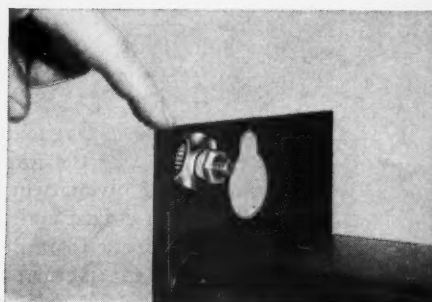
ONE of the most fabulous by-products of this cyclical change of weather is the impact on the human race. In this issue (beginning page 193) we present a rather unusual type of article for this magazine by a scientist who has specialized on Greenland. Digging around in Greenland tells the tale of changing weather in both directions—ever since the days when Eric the Red and other legendary Vikings and Celts roamed the North Atlantic, centuries before Columbus.

THERE is today evidence of buildings, churches, and farm cultivation in Greenland going back centuries to an earlier warm cycle. These were all obliterated and the old Norse agriculture smothered under a blanket of winter ice and snow which would yield a living only to the hearty Eskimo sealers. Today, once more the cycle is reversing and the lands are growing greener and the Eskimos have to turn to warmer pursuits because the seals have departed from their shores.

Of more practical and timely considera-



MOUNT IN ANY POSITION, bushings up or down, on the pole or on the crossarm, terminals are readily accessible.



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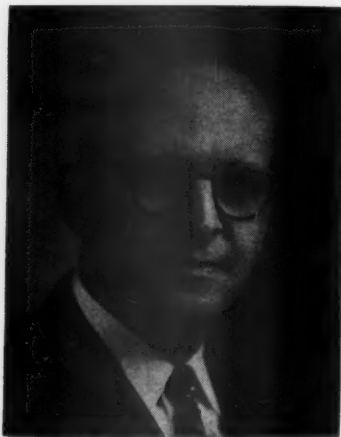
PAGES WITH THE EDITORS (Continued)

tion for American citizens, however, is the growing importance of Greenland and other Arctic territory in the future development of our own economy and its defense. Now that jet planes have minimized the traditional differences between the East and West, the advice to the young man of the future may now be "Go North." The author of this article about the growing importance of Greenland has endeavored to tell us something about that country in terms of utility services.

DR. SVEND FREDERIKSEN, author of this article, was born in Holstenborg, Greenland, in 1906. He was educated as a teacher in Copenhagen and received the American equivalent of a PhD at the University of Copenhagen in 1945. He has written a number of articles on his native country before coming to the United States as a professor at the graduate school of Georgetown University in 1948. He is now an American citizen and a research associate of the Arctic Institute of the Catholic University of America at Washington, D. C. He is a fellow of the Rockefeller Foundation and the recipient of a grant from the American Philosophical Society for studies on medieval history of the western hemisphere.

* * * *

RECENTLY there appeared in PUBLIC UTILITIES FORTNIGHTLY an article advocating that utilities might find it advantageous to compensate security dealers for handling the rights of stockholders to



© Harris & Ewing

DR. SVEND FREDERIKSEN

share in distribution of new issues. This is a somewhat controversial subject. In the leading article in this issue, JACKSON MARTINDELL, president of the American Institute of Management, has written a discussion of the same situation from the standpoint of management.

MR. MARTINDELL, who gives us the other side of the picture with respect to dealer compensation for handling utility shareholders' rights, has an authoritative background for such an analysis. He started his business career on the editorial staff of the old *Magazine of Wall Street*. He was one of the founders of Fiduciary Counsel, Inc. From 1931 to 1948 he served as president of that investment counsel organization, supervising more than \$600,000,000 of investment funds. For the past seven years he has been the president of the American Institute of Management, which studies ethical issues as well as those of a business nature. It is a nonprofit foundation engaged in the study of management methods and problems. This foundation has more than 12,000 associate members who are, for the most part, top officers of America's largest and best-known business enterprises.

* * * *

IT is generally agreed that regulation would be better accepted by the public if it was better understood, and it would be better understood if more people took an interest in it. The author of the article beginning on page 185 is JOHN J. HASSETT, a professional writer of business topics. He has been checking up on attendance at public hearings of regulatory commissions in contested rate cases. What is the function of such public hearings? Should potential protestants be encouraged to attend before the rate cases are decided rather than make known their dissatisfaction and, perhaps, their disposition to litigate after the rate orders are handed down?

THE next number of this magazine will be out March 3rd.

The Editors

REMINGTON RAND UNIVAC



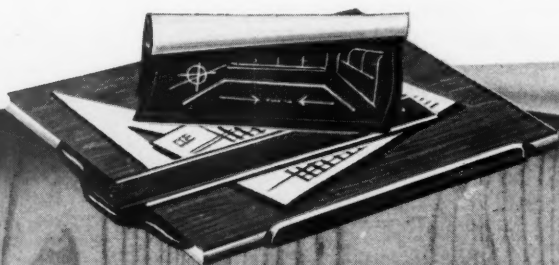
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Coming IN THE NEXT ISSUE



WHAT THE NEW RAPID TAX DEPRECIATION MEANS TO UTILITIES

The subject of rapid depreciation is one of the most timely and important for the American economy and, because of its high and substantial rate of expansion, particularly so for the utility industry. This is far more important than the relatively temporary accelerated amortization of emergency facilities, for it is to continue permanently and will apply, if desired, to all classes of new property additions. Willard F. Stanley, president of Corporate Services, Inc., of New York city, and author of the latest book on rapid tax depreciation, has written an analytical account of the special impact of this tax policy on public utilities. To the extent that the "fast tax" concept becomes a permanent part of our federal tax structure, this subject is a most significant and important development which should be stressed.

WHAT FPC GAS PRODUCER CONTROL MEANS TO OTHER INDUSTRIES

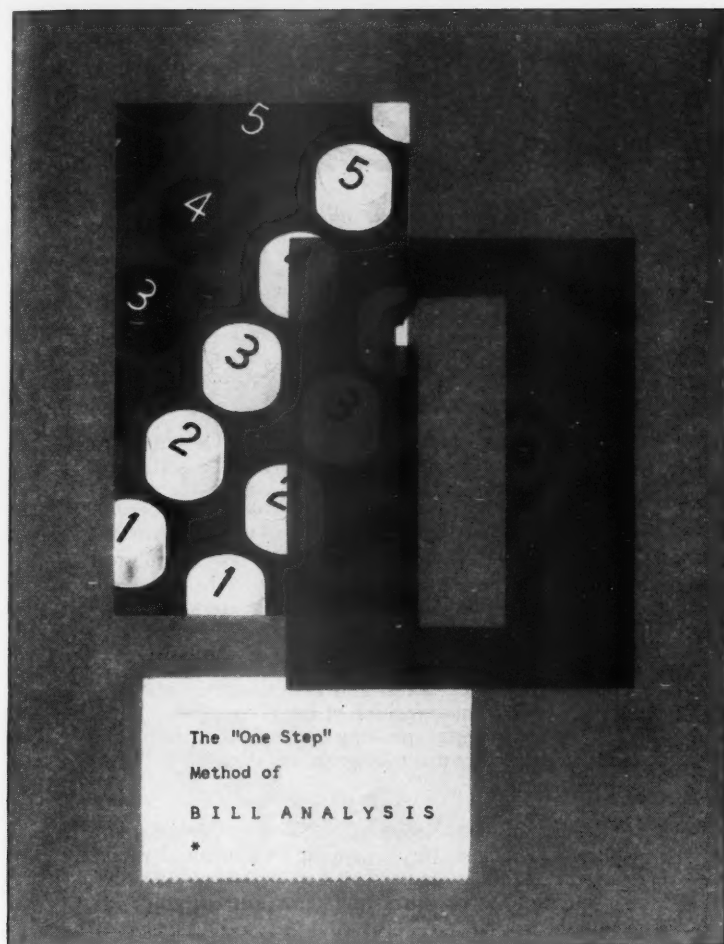
There has been a good deal of discussion pro and con over the legal impact of the U. S. Supreme Court's decision last June placing independent gas producers under the jurisdiction of the Federal Power Commission. But there has been relatively little attention paid to the impact of this so-called Phillips Petroleum Company decision on other industries. A. M. Rippel, manager of the natural gas department of the Phillips Petroleum Company, has undertaken to analyze what he calls the "chain reaction" of the FPC control of the independent gas producers. He arrives at a fundamental conclusion that the citizens of this country must choose between the law of supply and demand to govern competitive products or price control by the federal government.

ZONING AND PUBLIC UTILITIES

In recent years local zoning has become an increasingly important and troublesome problem for gas, electric, and telephone companies. Where zoning is in effect, both public utility companies and private property owners lose a great measure of freedom of action unless zoning regulations are carefully and fairly drawn in the over-all public interest. M. C. Dan Avery, head of the land and insurance department of the New York State Electric & Gas Corporation, has made a practical and up-to-date study of problems and procedures which public utility companies can well consider in dealing with the zoning requirements and necessary changes in zoning regulations.



Also . . . Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.



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*Executive director, Research
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"The difference between a politician and a statesman is that a politician is true to his party and a statesman is true to his principles."

ROBERT E. BRADFORD
*Former governor of
Massachusetts.*

"Expediency . . . is often our first law of political survival . . . The test, as I see it, is how to be expedient on little things without giving in on matters of major principle."

DAVID M. KENNEDY
Chicago banker.

"Economy, lower taxes, and honest money are having their effect. The transition of our economy to a lower level of governmental spending is progressing smoothly, and private sectors are taking up the slack."

RONALD M. KETCHAM
*Washington representative, Los
Angeles Chamber of Commerce*

"Results of last November's election showed there definitely is no basis for demanding an immediate return to bigger federal spending, vast new federal subsidies, or a buildup of concentrated federal authority."

LOUIS W. DAWSON
*President, Mutual Life Insurance
Company of New York.*

"The desire for security is strong, persistent, and universal. No one can quarrel with such an aspiration. . . . The individual who questions the desirability of social welfare plans is in danger of sounding churlish and antihumanitarian."

M. S. RUKEYSER
Columnist.

"Genuine sociological gains in material well-being stem from improved technology and better labor-aiding tools of production, the fruits of the creative mind working in the realm of science, invention, and engineering rather than from paper blue-sky social schemes. Obviously, economic progress must depend on something besides irredeemable demagogic promises!"

BENJAMIN F. FAIRLESS
*Chairman of the board, United
States Steel Corporation.*

"I believe that government regulation has its place. I believe that the proper function of government regulation is to protect the public interest. And I believe that the best way to protect the public interest is to promote competition—not to prevent it! I do not believe, however, that government regulation of the railroads means government management of the railroads. I do not believe that a modern system of transportation, in this age of jet propulsion, can be developed successfully under the horse-and-buggy concepts of nineteenth century controls. And I do not believe that freedom to compete should ever be denied to any American enterprise in any competitive industry!"

To help safeguard Electric Utility service standards—

ELECTRO-MOBILE POWER



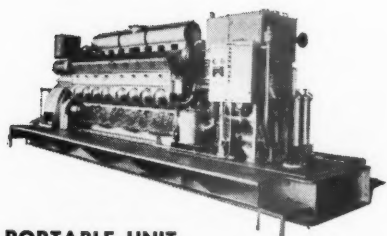
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REMARKABLE REMARKS—(Continued)

C. HAMILTON MOSES
*Chairman of the board, Arkansas
Power & Light Company.*

"Don't forget—a politician lives for the next election
—a statesman lives for the next generation."

BEARDSLEY RUMI
Economist.

"Optimistic forecasts both for the long pull and for
1955 are abundantly justified by the known facts."

OLIVER M. CHATBURN
*Vice president, California Federal
Savings & Loan Association.*

"The only frontier we have to fear is the lack of
human desire to build a better standard of living for
everyone—through better selling."

N. R. CAINE
Noted tax authority.

"... the administration must come to the realization
that this 25 per cent levy [the capital gains tax] plus the
six months' holding period have to be reduced for the
good of the economy as well as for increased federal
revenues."

HINES H. BAKER
*President, Humble Oil &
Refining Company.*

"The business of producing natural gas has none of
the characteristics of a public utility. It is highly com-
petitive. The field is open to all comers. There are no
franchises, no government restrictions of competition;
no natural tendencies to monopoly."

EDITORIAL STATEMENT
The Wall Street Journal.

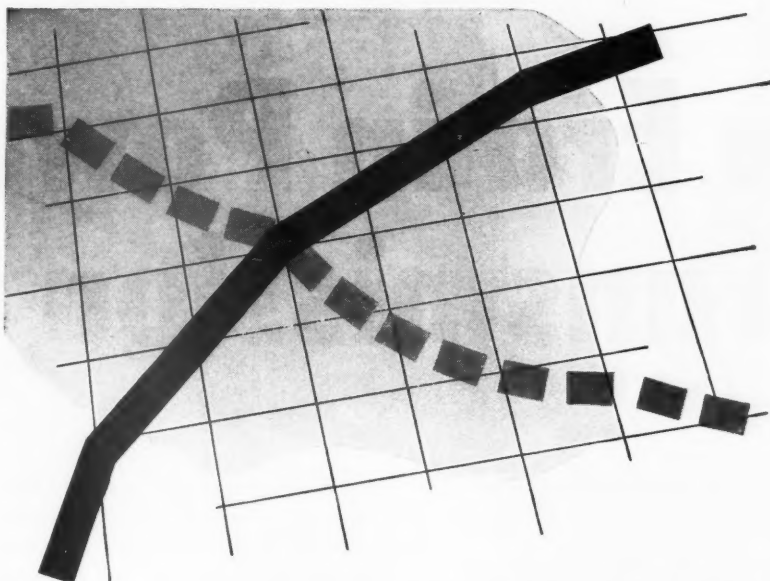
"One of the verities is that what goes up must come
down. But what goes up need not come down imme-
diately. Nor need it come down in the same place from
which it went up—which is one of the difficulties, for
it may come down at the most unpropitious time and on
the heads of unsuspecting people."

GEORGE SOKOLSKY
Columnist.

"The American social system is based upon the private
ownership of wealth, upon private ownership of the
means of production, distribution, and exchange. The
principal commodity in our industrial system is power,
electrical power, as it is today; perhaps atomic power,
as it may be in the future. Coal and water are the prin-
cipal natural resources that go into the manufacture of
electricity. Coal is privately owned in the United States.
All the products of atomic fission are government
owned."

CLIFFORD F. HOOD
*President, United States Steel
Corporation.*

"... we have learned little from the archives of past
economic failures. Down through the years, in virtually
every country in the world, progress has been held back
for decades while socialistic theories run their course of
hope and frustration to fail in the mire of excessive
controls, taxes, and bureaucracy. And what of our own
nation? The experience of the past twenty years, with
the exception of the last year or so, was one of steady
progress by the economic soothsayers. We have not as
yet thrown off punitive taxes... or vast government...
or government-sponsored monopolies and a cheapened
national currency. In particular, we still have the
graduated income tax system of Karl Marx. It is alarm-
ing that these programs are referred to in some quar-
ters even now as landmarks in twentieth century
progress."



A SOUND RATE STRUCTURE is the key to adequate earnings

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THIS 230,000-volt, 150,000-kva power transformer was built by Allis-Chalmers for Duke Power, to be installed at Riverbend steam station near Mt. Holly, North Carolina. It is believed to be the highest kva transformer ever put into service in the 230,000-volt class.

Records are being broken almost monthly as larger and larger power transformers are shipped by Allis-Chalmers to utility installations all over the country. For example, the highest voltage transformers ever ordered in the United States are now being built by Allis-Chalmers. These will be 345,000-volt, 200,000-kva single-phase units that will form the largest bank ever built — a total of 600,000 kva. They will be shipped at the end of this year.

Allis-Chalmers is becoming the overwhelming choice to help utilities break the barriers of high voltage transmission with larger and larger transformers. Here are some of the reasons why:

Allis-Chalmers pioneered the development of corona-free design. Result: Possibility of in-

sulation damage that previously made such large transformers difficult to design is completely eliminated. Buyers are assured maximum transformer life with no danger that corona will cause insulation breakdown.

Allis-Chalmers last year successfully produced the highest voltage commercial-type transformer ever built. The 600,000-volt unit gives utilities a proved means for lifting voltage horizons even farther. It produced data which show the practicality of designs for power transformers for 880,000-volt transmission.

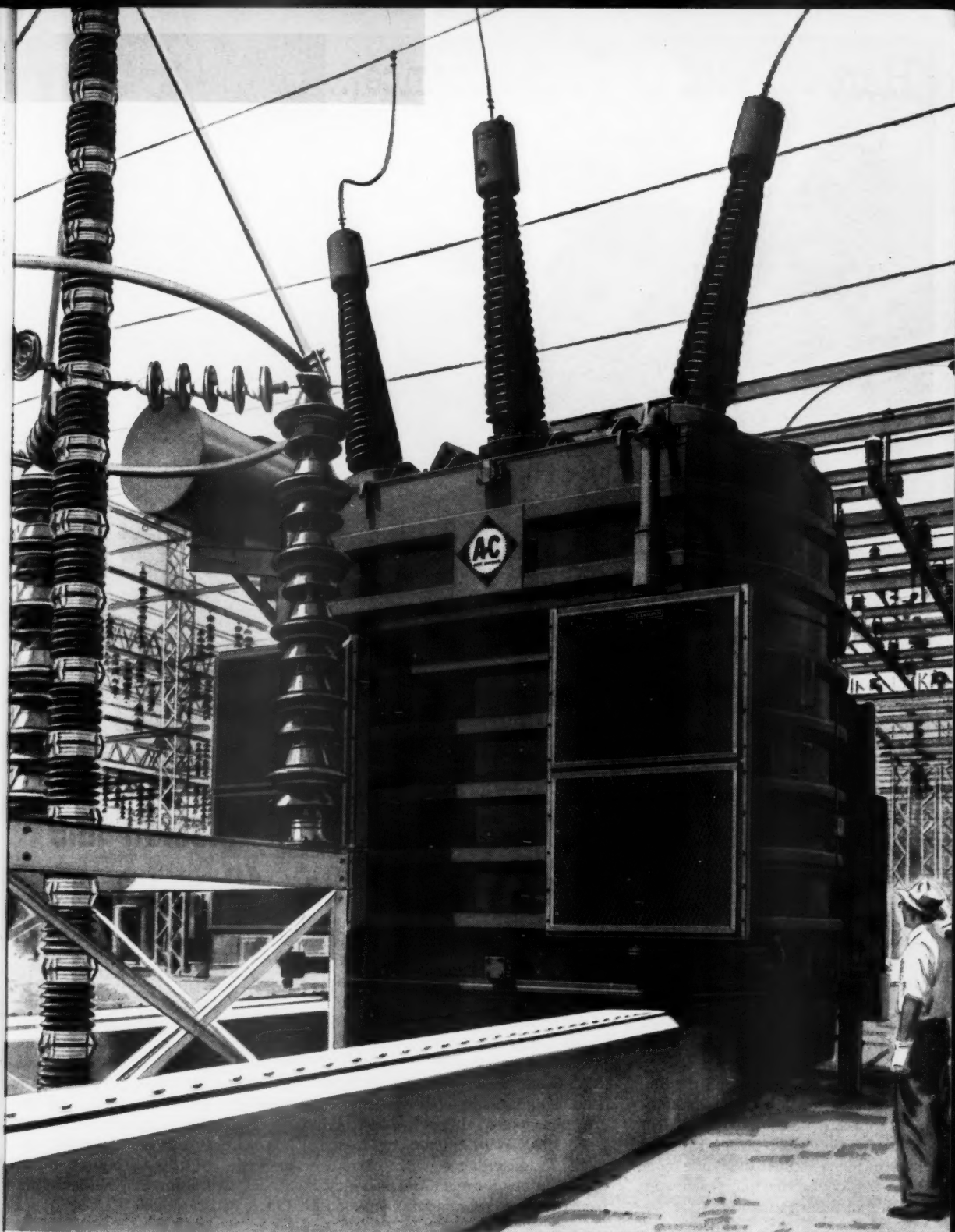
Allis-Chalmers successfully adapted welding techniques to make possible the use of heavy plate aluminum in transformer core and coil construction. As a result, transformers are lighter in weight, can be built in larger sizes, and can be more easily shipped and installed.

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PART OF THE Fulton Springs-Kimberly 44 kv transmission line of Alabama Power Company. Some of the poles in this line have been in service more than 40 years.

Pressure-creosoted poles in this transmission line have been in service more than 40 years

● Alabama Power Company's Fulton Springs — Kimberly 44 kv transmission line today includes more than 100 pressure-creosoted poles that originally went into the ground in their present locations in 1914—more than 40 years ago.

Originally a radial feeder, the line was constructed with approximately 600 pressure-creosoted poles. In 1924, the line was rebuilt with span lengths increased. At that time more than 200 of the original poles were re-used in other locations.

Over the years replacements have been made in the original group of poles, with deterioration accounting for a very small percentage. But 109 of the original poles are still in service on the Fulton Springs-Kimberly line.

Alabama Power Company has been using pressure-creosoted southern pine poles almost exclusively since 1920. With timber and treatment in accordance with current specifications, normal life expectancy from pressure-creosoted transmission

poles is at least 40 years.

JUST ANOTHER EXAMPLE

... of the effectiveness of pressure-creosoting in lengthening pole life and reducing replacements. And for the best performance from pressure-creosoting, be sure USS Creosote is used. For more information on this effective wood preservative, contact our nearest Coal Chemical sales office or write directly to United States Steel Corporation, 525 William Penn Place, Pittsburgh 30, Pa.

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The Western Precipitation

CMP Unit

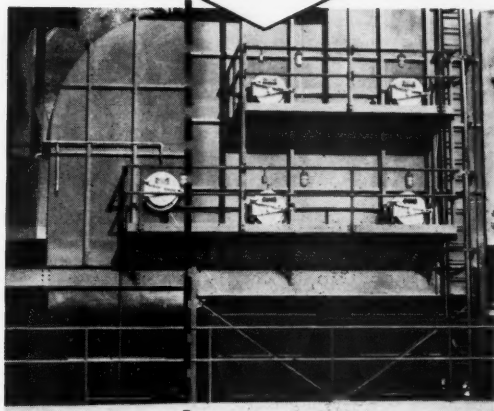
...its advantages to PUBLIC UTILITIES

Inasmuch as most public utility power generating plants are located in or adjacent to metropolitan areas, the control and recovery of fly ash from stack gases is a particularly important problem. To assist power plants in solving this problem Western Precipitation pioneered, almost a half century ago, the first commercial application of the now-famous Cottrell Electrical Precipitator—and this type of equipment is still universally recognized as outstanding in its field.

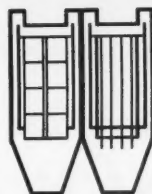
Some years later, Western Precipitation also pioneered the first small tube *mechanical* recovery equipment—the Multiclone Collector—to provide high recovery efficiency at low installation cost.

And as a result of these years of firsthand experience in *both* electrical and mechanical recovery methods, Western Precipitation subsequently introduced the CMP unit—fly ash recovery equipment that combines in *one* integrated unit the advantages of both electrical and mechanical recovery principles.

- The CMP first passes the stack gases through a Multiclone section where the heavier fly ash particles are *mechanically* removed.
- Then the partially-cleaned gases pass through a Cottrell section where the very fine fly ash particles are *electrically* recovered.



MULTICLONE
SECTION



COTTRELL
SECTION

RESULT—by using a Multiclone section to remove all but the finest particles, the bulk of the recovery operation is performed with relatively low-cost equipment. And using a Cottrell for final clean-up insures unusually high recovery efficiency—approaching theoretically perfect, if desired. Thus, very high recovery efficiency is obtained at low installed cost.

With CMP equipment, even small utility companies can afford adequate fly ash recovery installations. But, large or small, the vital factor in making an efficient CMP installation is obtaining the proper balance between the mechanical and electrical sections to fit the particular requirements of *each individual* application.

This requires actual field experience—and no other organization can equal Western Precipitation's years of first-hand experience in *both* mechanical and electrical recovery methods... your assurance of maximum satisfaction when you bring your fly ash problems to this long-established organization.

Western Precipitation Corporation

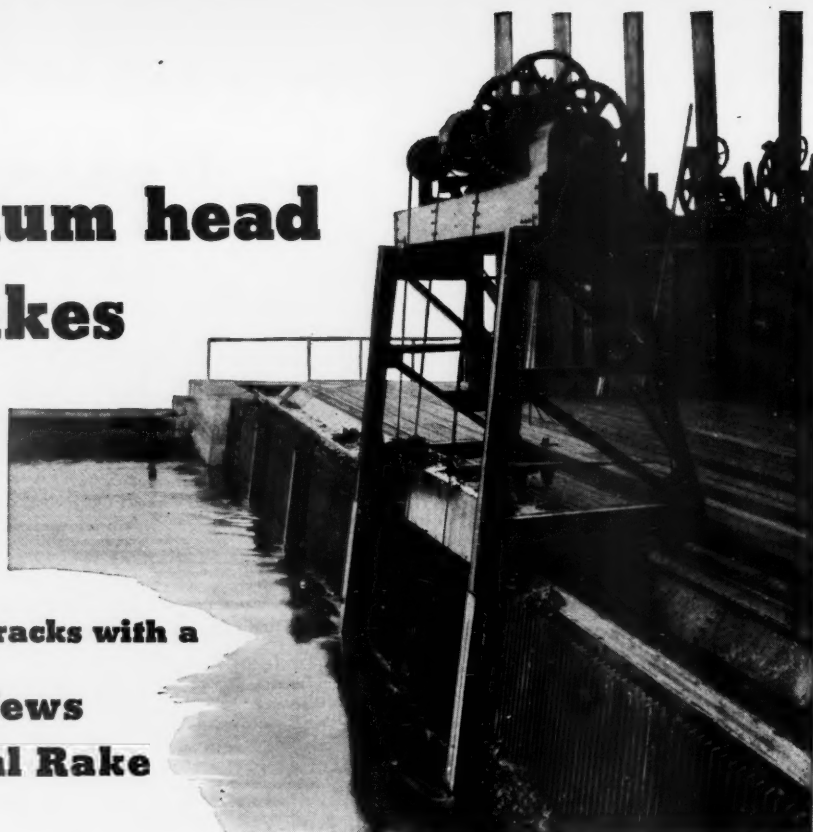
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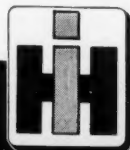
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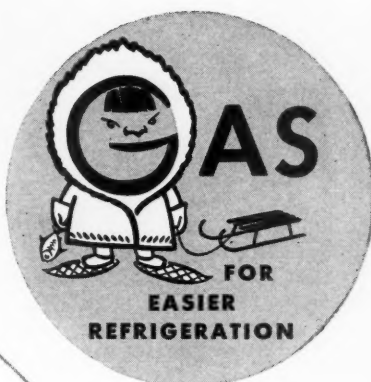


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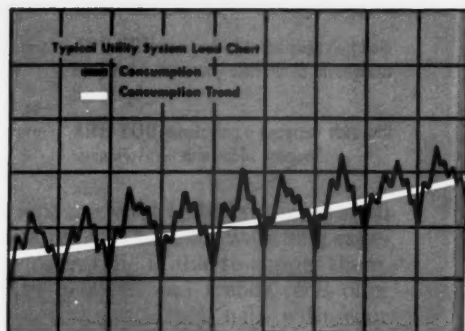
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Thursday—17 <i>Pennsylvania Electric Association, Electrical Equipment Committee, begins winter meeting, Philadelphia, Pa.</i>	Friday—18 <i>American Gas Association-Edison Electric Institute end 2-day accounting conference planning meeting, Chicago, Ill.</i>	Saturday—19 <i>North Central Electric Association, Sales Committee, will hold meeting, Minneapolis, Minn. Mar. 6-9. Advance notice.</i>	Sunday—20 <i>Edison Electric Institute, Residential Promotion Committee, begins meeting, New York, N. Y.</i>
Monday—21 <i>Mid-West Gas Association will hold meeting, St. Paul, Minn. Mar. 7-9. Advance notice.</i>	Tuesday—22 <i>National Association of Corrosion Engineers will hold annual convention, Chicago, Ill. Mar. 7-11. Advance notice.</i>	Wednesday—23 <i>Pacific Coast Electrical Association begins conference on electronic integrated data processing, Los Angeles, Cal.</i>	Thursday—24 <i>National Adequate Wiring Bureau begins annual conference, Chicago, Ill.</i>
Friday—25 <i>Pennsylvania Electric Association, Systems Operation Committee, ends 2-day meeting, Reading, Pa.</i>	Saturday—26 <i>National Electrical Manufacturers Association will hold meeting, Chicago, Ill. Mar. 13-18. Advance notice.</i>	Sunday—27 <i>Southern Safety Conference and Exposition begin, New Orleans, La.</i>	Monday—28 <i>Texas Telephone Association will hold annual convention, San Antonio, Tex. Mar. 14, 15. Advance notice.</i>
MARCH Tuesday—1 <i>Kentucky Independent Telephone Association begins convention, Lexington, Ky.</i>	Wednesday—2 <i>Pacific Coast Gas Association begins home service conference, Santa Monica, Cal.</i>	Thursday—3 <i>American Water Works Association, Southeastern Section, will hold annual meeting, Savannah, Ga. Mar. 21-23. Advance notice.</i>	Friday—4 <i>Southern Gas Association begins transmission management conference, Houston, Tex.</i>



Courtesy, British Columbia Electric Company Limited

Problems of Winter Transit

Public Utilities

FORTNIGHTLY

VOL. 55, No. 4



FEBRUARY 17, 1955

Management Looks at Dealer Compensation

Recently there appeared in PUBLIC UTILITIES FORTNIGHTLY an article advocating that utilities might find it advantageous to compensate security dealers for handling the rights of stockholders to share in distribution of new issues. This is a somewhat controversial subject. The president of the American Institute of Management now gives us a discussion of the same situation from the standpoint of management.

By JACKSON MARTINDELL*

IN the November 11, 1954, issue of PUBLIC UTILITIES FORTNIGHTLY there appeared an article¹ advocating that companies pay fees to security dealers for aiding stockholders in exercising their rights. This is a controversial subject, as the author, John F. Childs, so aptly pointed out in the following passage:

*President, American Institute of Management. For additional personal note, see "Pages with the Editors."

¹"A Technique of Offering Common Stock through Rights," by John F. Childs, PUBLIC UTILITIES FORTNIGHTLY, November 11, 1954, page 617.

"The dealers are naturally anxious to have companies pay such fees. For they receive no regular compensation for this function as they do when they handle security transactions for a customer. . . . If . . . the dealer suggests that the stockholder sell the rights, the dealer will get a commission on the sale. In addition, now knowing his client has funds to invest, he can then recommend another security to the stockholder on which he will also receive a commission. . . . Cannot something

PUBLIC UTILITIES FORTNIGHTLY

be worked out so that the dealer will be *induced* to co-operate to the benefit of all concerned?" (Italics supplied.)

The above quotations reveal with extreme clarity why there must be serious question as to the proposal to compensate dealers in such situations. There is no discussion of the propriety of dealers accepting such fees; nothing is said about the integrity of a management that offers such fees; and no one raised the question as to whether this is the only function security dealers perform without compensation from security issuing companies, or why such payment, if any, should not be made by the rights holder himself.

IT seems to this writer that the arguments for dealers' fees boil down to the implication found throughout the study, that, unless the security dealers are rewarded by payments from the issuing corporations, they may advise against exercising rights, thereby increasing pressure on the stock during the subscription period. Thus, there would be greater market pressure exerted on the price of stocks of companies not compensating dealers than there would be in the case of those companies rewarding the dealers. How much greater this pressure might be is what Mr. Childs attempts to measure. The full import of this position challenges a doubt. If the position of security dealers is accurately reflected on the basis of these arguments, what would seem to be needed would be closer regulation of the security business.

It may be pointed out that many companies, including public utility companies, pay fees to outside agents for the solicitation of stockholder proxies as a regular annual order of business. The issue then

arises as to whether or not this is a questionable practice, and, if morally permissible, is there complete similarity between this and the suggestion that dealer fees be paid in connection with the handling of stockholders' rights?

The two matters are not similar. When a company is soliciting proxies directly or indirectly, and stocks are in the name of security dealers or brokers as nominees, can the company management pay a fee to the dealer or broker for his influence over the actual security owner? The federal law clearly prohibits any company management from paying any dealer or broker for inducing any prescribed action out of the security holder who has a nominee certificate. The dealer or broker performs a service in connection with proxy solicitation but is allowed no compensation from the company management. This is as it should be. Perhaps the law should be equally plain as applied to stockholders' purchase rights.

Security dealers and brokers all over the country hold for safekeeping securities of customers. Some charge customers a safekeeping fee, others make no charge. Why do not these dealers and brokers write to the issuing companies and demand compensation from the managements to the extent to which they hold stocks of that particular company in safekeeping? This is in fact not as untenable as the proposal for outright dealer fees for handling rights, because judgment is not involved and advice is not to be bargained for.

Two important questions of essential integrity are involved in this matter:

1. Security dealers operate in a fiduciary capacity with respect to their cus-

MANAGEMENT LOOKS AT DEALER COMPENSATION

tomers and regarding advice on their investments. How can these dealers possibly give different advice, depending on whether or not they are compensated by companies making rights offerings and still live up to this fundamental obligation?

2. Corporate managements are the representatives of the stockholders in managing the enterprise. In a sense they hold a trusteeship over the property of its owners. How can any action which would influence the *kind* of advice which third parties would be inclined to give to those owners be reconciled with this fundamental position of management?

The American Institute of Management looks askance upon companies that will pay brokers or dealers commissions for aiding or influencing stockholders in exercising their rights. It seems to us that a stockholder's right, which in most cases is prescribed by law, is a privileged matter between the stockholder and his management. Furthermore, if both security dealers and managements were to carry out their responsibilities with uncompromising integrity, the factor which Mr. Childs has attempted to measure (that is, the difference in market pressure resulting from dealer action) would probably become too small to be susceptible of measurement.

FOR the benefit of those more concerned with statistics, the writer would like to call attention to some of the facts that are not revealed in this earlier statistical study contained in Mr. Childs' article.

It was there suggested that the cost of dealer compensation might be added to the offering price of the stock. It was contended that this would not reduce the rights value because of the reduction in pressure on the stock during the offering period, a matter with which we cannot agree, as will be discussed further on in this article. Further, objections to adding the cost of dealer fees to the offering price are, first, that at the time of offering there is no way of knowing how much dealer fees will amount to and, second, there is the question of unfair or preferential treatment in assessing the cost of dealer fees against all stockholders, even those who do not ask a dealer for assistance in handling their subscription.

Has not the matter of pressure on the stock during the offering period been over-emphasized? Directors and corporate officials whom I know still place primary emphasis on the percentage of the offer taken by investors in measuring the relative success of an offering. Taking a look at the offerings mentioned in the Childs article, from this very important standpoint, raises a fundamental question as to the



Q "THE federal law clearly prohibits any company management from paying any dealer or broker for inducing any prescribed action out of the security holder who has a nominee certificate. The dealer or broker performs a service in connection with proxy solicitation but is allowed no compensation from the company management. This is as it should be. Perhaps the law should be equally plain as applied to stockholders' purchase rights."

PUBLIC UTILITIES FORTNIGHTLY

value to corporations of dealer compensation.

Of the 24 electric utility common stock offers studied by Childs for his FORTNIGHTLY article, the 12 issues paying dealer compensation averaged 88 per cent subscriptions, while the 12 issues *not* using dealer compensation averaged 91 per cent subscriptions. Four of the companies on Childs' list of 12 paying dealer compensation had a later stock offer or offers (11 in total) on which they discontinued the practice of paying dealer compensation. Both the group paying dealer compensation and the group not compensating dealers averaged 96 per cent subscriptions.

IN a footnote to Childs' article there are listed 68 stock offers from 1949 through August, 1954, where dealer compensation was used. For 53 of these offers where it was possible to obtain the per cent subscriptions to the primary offering, only 86 per cent subscriptions were obtained as an over-all average, not a particularly impressive result. The evidence does not indicate that dealer compensation has contributed to the success of the stock offerings studied.

Childs states that the dealers' fees averaged more than one-half of one per cent (.56 per cent) of the principal amount offered. This compares with underwriters' commissions which averaged about one per cent (1.09 per cent) on the 10 offers underwritten out of the 12 issues in Childs' group not paying dealers compensation. (Only two of the other group of 12 offers were underwritten.) The 1.09 per cent underwriting commission included the risk incurred by the underwriter in standing ready to take over the unsubscribed portion of the offers. In one of these 10 offers,

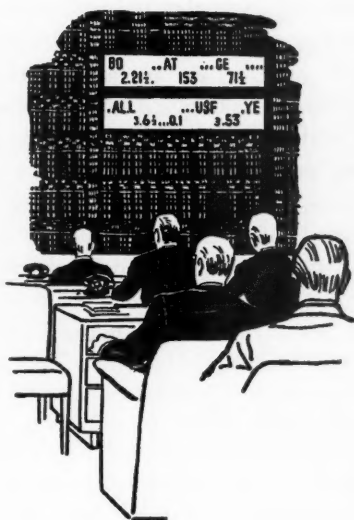
the underwriter was obliged to take up 36 per cent of the offer that was not subscribed, and for the 10 offers the underwriters took up an average of 11 per cent of the total offering. In handling subscriptions through rights, dealers undertake no risks and if fees are to be charged it would seem reasonable that they should be relatively much smaller than underwriting fees.

Judging by the discussion which has been generated recently over the subject of whether or not corporations should compensate dealers for assisting stockholders in completing their subscriptions, one might assume that the practice of compensating dealers had gained wide acceptance. Actually, however, this is far from the true situation. Out of 133 offers of public utility common stock to stockholders amounting to \$5,000,000 or more since January 1, 1949, and aggregating \$1.7 billion, only 9½ per cent of the principal amount offered involved payment of dealer compensation.

IN reviewing the list of companies which have paid dealer compensation in connection with stock offers, we find some well-known utilities which discontinued the practice of paying dealer fees on subsequent offers of stock to stockholders. The following companies were included in the list of 12 offers used by Childs in his sample of companies paying dealer compensation: Consumers Power, Long Island Lighting, Oklahoma Gas & Electric, and Wisconsin Electric Power. These companies had 11 subsequent stock offerings to stockholders (through 1954) on which no compensation was paid dealers. Other prominent utilities (such as Columbia Gas System, General Telephone, and New

Paying for Dealer Services

"SECURITY dealers and brokers all over the country hold for safekeeping securities of customers. Some charge customers a safekeeping fee, others make no charge. Why do not these dealers and brokers write to the issuing companies and demand compensation from the managements to the extent to which they hold stocks of that particular company in safekeeping? This is in fact not as untenable as the proposal for outright dealer fees for handling rights, because judgment is not involved and advice is not to be bargained for."



York State Electric & Gas), after trying dealer compensation, have discontinued making such payment on subsequent offers.

WOULD a corporation official or director be statistically convinced of the value of paying dealer compensation after reading the article in the November 11, 1954, issue of the FORTNIGHTLY on the subject? In my judgment he would not be, unless he accepts unquestioningly the statistics which Mr. Childs produced purporting to show substantially less pressure on the stock during the subscription period for those offers where dealer compensation was paid. Before the study is accepted as such conclusive proof, certain aspects of it should be considered, such as the points which follow:

1. The entire weight of the argument for dealer compensation rests on the sta-

tistical validity of the study of two hand-picked groups of 12 electric company stock offers. The averages upon which the conclusions were based cover wide variations in the results for the individual companies. The 12 offers where dealers were compensated showed variations in pressure from +3.55 per cent to -3.62 per cent, an over-all spread of 7.17 per cent. The 12 offers where dealers were *not* compensated showed variations in pressure from +5.30 per cent to -1.36 per cent, an over-all spread of 6.66 per cent or somewhat less than for the first group. Eliminating the extremes from this study, on any of several reasonable bases, all tend in the direction of substantially narrowing the difference in pressure between the two groups, in several cases to less than one-quarter of one per cent. Four of the 24 offers which Childs studied accounted for two-thirds of the difference in pressure

PUBLIC UTILITIES FORTNIGHTLY

between the offers paying dealer compensation and those that did not.

2. The stocks of the companies used by Childs were, on the average, lower-rated than the stocks in Standard & Poor's average, which he used as his standard in measuring pressure.

3. Only two of the 12 offers in the group paying dealer compensation were underwritten as compared with 10 of the 12 in the group not paying dealer compensation.

4. Six of the 12 offers in the group used in Mr. Childs' study which paid dealer compensation—in other words, half of the sample—were offers by only two companies. The sample included four offers by General Public Utilities and two by New England Electric. The conclusions actually were based, therefore, on the stock offers of only eight electric companies which paid dealer compensation.

5. Both of the companies mentioned in item 4 above, had greater pressure on a subsequent offer where they paid dealer compensation than they did on the first offer when such compensation was paid. Could this mean that dealers only exerted themselves on the initial offer where dealer compensation was paid, in the belief that the practice once started would be continued regardless of results?

6. Mr. Childs makes one statement² with which I completely agree: "The Standard & Poor's utilities common stock index used to represent the general market action may in fact not be exactly representative of the general market action for the particular stock under consideration." Standard & Poor's index represents the composite results of 20 utility stocks and it would be the rarest coincidence if any

of these 20 stocks, let alone the electric company offers used by Childs (only two of which are included in Standard & Poor's 20), had the same market performance as the average of the group. Yet, the conclusions set forth are based on the assumption that deviations from the Standard & Poor's average during the subscription period were an accurate measure of pressure on the stock.

7. Explaining the selection of the 12 stock offers not using dealer compensation, it was stated that they were "chosen on the basis that they were made closest in time to the offerings which included assisting dealers' fees." While undoubtedly a conscientious effort was made to select offers with the minimum interval between offering dates, in one-half of the cases (6 out of 12), a month or more elapsed between the start of the subscription period of the offer using and of the offer not using dealer compensation. In the case of the two 1949 offers, more than three months elapsed between the two dates.

WITH the daily changes taking place in the stock market and the length of time which elapsed between the various offers compared, it is questionable how much significance can be attached to the results found. My experience has shown that there is generally considerably more pressure on a stock where a new offering comes during a declining market, than when the market is trending upward. The Childs study does not show that the offers selected for the dealer compensation group experienced general market conditions resembling those experienced by the offers where no dealer compensation was paid. Yet differences in stock market conditions could exert a material influence on the

² *Ibid.*, page 622.

MANAGEMENT LOOKS AT DEALER COMPENSATION

pressure of the offers selected, especially where a considerable period of time elapses, as was the case in several of the offers compared.

MR. CHILDS is frank in stating that in his study he has only attempted to measure pressure during the offering period.

He states:³

... Not much can be done to control the *preoffering pressure*. We will skip this matter of *preoffering pressure* and discuss the pressure during the offering period itself.

The matter of preoffering pressure is thus lightly dismissed. But the issuing corporation is very much concerned with pressure on the stock at any time after the announcement of the offer, whether before or after the ex-rights date. If underwriters or speculators took a short position in the stock prior to trading in rights, then later covered through purchase of rights, "negative pressure" could easily develop during the subscription period, particularly in the case of relatively small offers.

Mr. Childs based his conclusions on the comparison of "average pressure" during the rights trading period on the two groups of offers. The only mention of maximum

pressure is in a footnote to Table II.⁴ Yet is not the corporation interested more in assuring that at no time, during the rights trading period, will the pressure on the stock become great enough to reduce the value of rights to the point where subscribers will not take the trouble to exercise them?

Looking at Mr. Childs' study from this standpoint, it was found that in his group of 12 offers using dealer compensation, for three of the offers where he shows negative *average* pressure there was positive pressure at certain stages of the subscription period. On other offers where Childs found very minor positive pressure on an average basis, it can be shown that the maximum pressure was considerably greater.

CORPORATION officials who carefully review this whole subject from the standpoint of trying to decide whether the benefits of dealer compensation are worth the probable costs to their company are more than likely to conclude that, while the Childs article makes it clear that dealers would welcome payment for handling rights transactions, there is little convincing evidence that it is right or profitable that the corporations should incur this added expense. If the value of dealer com-

³ *Ibid.*, page 618.

⁴ *Ibid.*, page 623.



"THE writer has known many hundreds of dealers and brokers over three decades and scores of these are numbered among the 15,000 members of AIM. He refuses to believe that the advice of these dealers can be placed on a mercenary basis except in isolated instances. Security dealers are entitled to compensation where they perform services of value for security holders. No one has yet made a convincing case that the issuing corporation should pay this compensation."

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pensation is to be proven statistically, it must be done from a somewhat different approach than that taken in the FORTNIGHTLY article of November 11, 1954. Furthermore, from the viewpoint of security dealers, it is indeed fortunate that the effect on market price of adverse advice resulting from failure of the issuing company to pay dealer compensation is virtually impossible to demonstrate statistically.

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case that the issuing corporation should pay this compensation.

ANOTHER important consideration should be the question of whether this is not the sort of incidental service which the dealer might better continue to provide gratis in maintaining the good will of clients and in encouraging them to bring their investment problems to him. In some instances where companies have appointed rights agents to assist stockholders in completing their subscriptions, there have been complaints from dealers that they have been deprived of opportunities for customer contacts.

A management has no right to reward certain stockholders, or their representatives, at the expense of other stockholders. Court law in this country clearly covers this point under the general heading of Corporate Opportunity.

A Solar Storage Battery

THE U. S. government is sponsoring efforts to develop a power storage battery "charged by sunlight."

Already spending hundreds of millions of dollars to harness the atom for generation of electricity, the government is now looking ahead to the time when not even nuclear energy will satisfy man's power hunger.

This was disclosed in the fourth annual report of the National Science Foundation, which assists a wide variety of research projects with federal money. The report said the foundation is supporting "a direct attack on the solar problem" at the University of Wisconsin.

"The storage of solar energy may in principle be accomplished chemically, electrically, or mechanically, or perhaps in some other less apparent form," the report said.

"This problem is currently being attacked at the basic level through the use of chemicals which can be converted into a different form of sunlight and then reconverted (to light and heat) in off hours.

"In effect, this would be a storage battery charged by sunlight."



Making Use of the Utility Rate Hearing

This writer has been checking up on attendance at public hearings of regulatory commissions in contested rate cases. What is the function of such public hearings? Should potential protestants be encouraged to attend before the rate cases are decided rather than make known their dissatisfaction and, perhaps, their disposition to litigate after the rate orders are handed down?

By JOHN J. HASSETT*

WITHIN the past year and a half, a publicly owned and operated water utility in my own county held a closed meeting of its commissioners and raised water rates without a public hearing or any prior notice to its customers.

The local and near-by papers made quite a fuss about it. There were charges of "star chamber sessions," outraged editorials, and considerable rumblings about rewriting the necessary county charters. Changes were sought to countermand the rate increase, prevent a recurrence of the

event, and curb the apparently unlimited authority of the county-owned utility.

LIKE many another civic group in the suburban area around the nation's capital, our citizens' association wrote letters of protest, and got up a petition which many signed urging a delay of the effective date of the increase and an investigation of the whole affair.

Nothing much has come of it since. The county water department proved that its action was completely in accordance with existing law. With facts and figures, it pointed out the economic justification for a rate increase. The new rates went into

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effect and, as far as I know, the law has not been changed.

My own reaction to the controversy was mixed. Like many others, I resented any organization's attempt to increase my cost of living without giving me a chance to complain or at least check up on it. That somehow did not seem to square with the old-fashioned American approach. At the same time, I realized that the rate increase was perfectly legal and probably economically justified, even if the law was so archaic as to permit its automatic accomplishment. What did surprise me, however, was the frequently heard comment, from folks I had always credited with some degree of awareness, that "This is another example of how utilities operate—raise rates, then tell the public about it!"

MANY, many persons in my county (which boasts the wealthiest per capita income in the nation, incidentally, and has a remarkably high incidence of college graduates) are under the impression that similar methods of increasing rates are used by privately owned, business-managed utilities. They think that public utility commissions are little more than rubber stamps, ready to pass along another bill to the consumer.

This, as readers of this publication well know, is greatly at variance with the facts. Such arbitrary action could never be taken by a privately owned utility, since the commissions and the courts must always impose on it a strict burden of proof to justify, at length and with documentary evidence, every penny it sought to earn.

It all boils down to an inescapable conclusion: Too many people in this country just do not understand utility regulation. Although millions of words have been

written and spoken by utility men and spokesmen for the regulatory authorities, too many people still regard regulation as a game of cops and robbers. And their sympathies are on the side of skinning the utilities. A man may resolve every doubt in his own favor in making out his income tax return. He will not even blink at new 1955 model auto prices, which are up \$60 or more on most models, with no explanation given or sought. But he will complain for weeks after gas or electric or phone rates go up a few cents a month.

What is important in understanding this penny-pinching attitude is the timing of the consumers' complaints—usually too little and too late. As an ailing Mark Twain used to say about his evening quota of pills, "All right, I'll take my medicine, but I reserve the right to complain about it."

There is some room for suspicion—at least the record shows some doubt—that the average utility customer is usually interested in blocking a rate hike or increased service charge of any sort to the last ditch. But his highly informal and indignant complaints may really stem from the fact that it is too much trouble to become informed about the situation. He may merely want to get some ideas about utilities off his chest, and then will subside into anonymity.

REGARDLESS of the intention of the man-on-the-street complaints, it will have to be admitted that the man on the street usually does not know what he is talking about and, more important, that doesn't stop him from talking. Any well-organized crusading influence—be it politically, ideologically, or even journalistically sponsored—can rouse him to object to a util-

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ity's request for a rate increase on very short notice.

BUT let's move up the social ladder a bit from the man on the street. The man in the office does not understand it, even though he may be closer to its actual operation than the man on the street. Among others who often do not understand it are the men in the pulpit, in the bank, behind a counter, or in front of a classroom. And that is the great pity, for men in such key positions could help others to understand and interpret utility regulation, if they only understood it themselves.

This is not a criticism but merely a recognition of one of the occupational risks, so to speak, or normal hazards of the utility enterprise. Much progress has been made by utilities on the public relations front since the dark days of the late twenties and early thirties. There has been exceptionally fine work done in humanizing utility companies in terms of cloaking every employee with the mantle of company responsibility, and in providing personalized service in a hundred ways. Fine things have been done in acquainting people with how essential utility service is. The oft-fascinating technical processes of utility production and service have been well explained. Public utility companies have done much to convince their neigh-

bors that they are integral and indispensable members of the community in which they operate. Even in the controversial field of public *versus* private ownership of utilities, the pros and cons of the issue have been well publicized.

But in a specialized area, a tough job remains to be done—one of the toughest. How to open management-to-public communications lines early, when a rate proceeding is contemplated. How to keep them open even after hearings are concluded and a decision is reached. How to indicate the ABC and 1-2-3 of utility regulation, so that the public is truly aware that no public utility can charge what it pleases, nor serve whomever it pleases, and that all these things are decided by public authority only after convincing proof that the public interest is being protected.

THE industry itself has always had to accept the responsibility for educating its customers to the wisdom, propriety, and honesty of regulation. If more people knew how regulation worked, more people would accept it. A corollary is that the company which is regulated would be better accepted if people understood *how* it is regulated.

From a public relations standpoint, the public understanding of the rate-making process is not insoluble. There is, to start



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with, widespread public interest in utility rates. That is a big advantage. An obscure subject without much appeal is definitely more difficult to publicize than one that has common reference in every household. This is clearly a problem which publicity, as a tool of public relations, can solve. The trick is in the handling, the timing, and the words chosen for the task.

What is needed is a concentrated effort to rouse people to take an interest in regulation *before*, not after, a commission has acted. A number of utilities have long made a practice to take the initiative in contacting industrial customers and key leaders in their areas to explain, in advance, a proposed rate change. A sportsmanlike understanding, if not actual support, can be mustered for the utility's position among leaders of the community—editors, teachers, preachers, union leaders, bankers, and businessmen. These leaders have to be approached intelligently, and at the right time—well ahead of any formal rate case proceedings.

ANOTHER part of an advance program of communication is to send out emissaries to specific organizations of community importance, such as neighborhood citizen associations, service clubs, and church groups. It takes time and tact to get spokesmen invited to such rostrums. The main thing is to get there before not after the accomplished fact. In the latter situation, the utility spokesman may only find himself confronted with a nearly hopeless task of putting the fire out by "answering" irate charges, criticism, or worse. Such appearance comes too late. Utility representatives are generally articulate. But their persuasion can be most effective, before minds close and ears refuse to hear.

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THIS brings us to the actual rate hearing itself. Should popular attendance at commission hearings be encouraged? It's a fair bet that less than one-hundredth of one per cent of any given city's population has ever seen the inside of a commission hearing room. A common tendency is for a handful of silent watchers to show up for public hearings, thereby making only a mockery of the very name itself. Public hearings are frequently more private than so-called star chamber sessions, and the public shows a modicum of interest only when it is barred from attending. Yet the day after a commission decision is announced, the voice of the maligned consumer is heard, protesting to all who will listen about the injustice that has been committed.

More than one state utility commissioner has had occasion to observe that ironic phenomenon of public conduct. The tearful bleats of annoyed citizens, who woke up one morning to discover that their utility bill had gone up three cents a week, nearly always came from those who never showed up at the hearings or otherwise showed the slightest interest in them. These commissioners, charged with sizable responsibility to consider rate increase requests in every possible light consistent with good regulation, know very well that intelligent opposition to rate increases, where it is warranted at all, tends to clarify the issues by drawing them distinctly. The more complete the record of proceedings, the fairer the decision.

ORDINARILY, the press is likely to give witnesses their share of the spotlight if they want to appear and even take the stand at hearings. On most occasions, reporters are actually seeking ways and



The Uses of Adversity in a Rate Case

“CONSIDERED in a broad light, even the so-called ‘nuisance’ opposition can serve a useful purpose in a rate case. If the ‘nuisance’ opposition cannot be headed off in advance through proper information and explanation, it is much better ventilated than suppressed. In the latter case, it can fester and subsequently blow up under circumstances when it cannot even be answered properly. Intelligent opposition, on the other hand, serves in a negative way to justify and outline the utility’s case, assuming that the utility is laying all its cards on the table.”

means to dramatize and humanize the proceedings. They would probably welcome the “good copy” which would surely result from the appearance of a noted local figure, either in support of or in opposition to a utility rate boost. The fact that protestants can command headlines—usually on some inside page of the newspaper—with blasts at commission decisions already decided, should lead such dissidents to conclude that earlier trumpetings, in time for the hearings, might merit even more thorough treatment in the press. Even protests which may be ill-considered go through the process of “predetonation” by adequate airing at the hearing if not ahead of it.

THERE are, of course, good reasons why rate proceedings are not well attended. Long stretches are devoted to technical discussions of such subjects as rate bases, off-peak load, therms, and BTU ratings, and dozens of others equally unfathomable to the average consumer. Endless charts and studies are produced in evidence, requiring detailed and complicated explanation, and the entire proceeding is usually conducted in legal terms that are chilling to the untrained ear. But at some point in these hearings there is always the opportunity for citizens, who wish to do so, to raise points which the others understand or want to understand better in terms of their own self-interest.

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Some people do attend rate hearings. Often they pose another type of public relations problem as well as a regulatory one. Sometimes hearing rooms, inexplicably become well filled, by groups representing themselves as champions of the public interest, but who really have a specific ax to hone at the expense of the commission, or the company, or the public, or all three. Attempts have been made on occasion, to try to establish "regulation by clique," through the formation of "protest" groups which inundate meetings, often in a noisy and unruly manner, and seek to influence decisions by upsetting the normal routine of a hearing.

Occasionally one reads of a hearing on some controversial matter which has been "jammed" as it were, like a foreign language broadcast aimed behind the Iron Curtain. These hearings may become populated by men and women who have no interest in the rate proceeding at all, are not the utility's customers, and may not even be residents of the area. There have even been instances of picketing by radical groups, designed to create the impression of outraged customers, who actually were brought by bus and train from outlying districts to confuse and complicate proceedings. On one occasion, delegates to a statewide labor convention were pressed into service as pickets at a utility commission hearing, because at the time they seemed to have nothing better to do with their visit to the state capital.

THERE is not much that can be done about this, of course, except expose the situation in its true light. It stands to reason that a group of longshoremen from a city miles and miles away, picketing a hearing on local utility rates, must be get-

ting dictation from a source which is not interested in the true merits of the rate case.

There is something else, however, that utilities can do by their very status as regulated industries. There is the "goldfish bowl" existence which they must live with respect to keeping accounts for plant investment, depreciation, expenses, taxes, payrolls, etc. All these accounts must be reported regularly to the commission to some extent in summary form and, of course, they become part of the burden of proof in a rate case. Therein lies an opportunity to turn what might otherwise be considered a nuisance or a handicap into a positive advantage from the standpoint of public relations.

A number of utilities through press advertisements and other means of publicity have made good use of their "goldfish bowl" existence to prepare the way for rate cases. By mere reference to official records they can show—perhaps with a little dramatized illustration—how much is being taken in and how much is going out, what is needed to make ends meet, and all the other arguments to justify the rate increase.

IN summary, the importance of advance preparation cannot be overemphasized. The old idea of sneaking up on a rate case, on the theory that what went on was not understood anyway, never was sound, and in the present political climate can be dangerous. Nor is it enough to assume that people should have confidence in their duly elected or appointed commission to trust it to administer regulatory matters fairly in the public's behalf.

As a matter of fact, it is doing the regulatory commission no favor to rely on

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"confidence" which the public may have, should have (or may not have), in their duly constituted regulatory authority. A public utility commission which has to decide on a utility rate increase without the advantage of some ground-breaking preparation or publicized justification by the utility company, can easily be put in the position of holding the political bag. The situation recalls the somewhat cynical remark of a certain Senator, who said that he could vote for the public interest much more readily if somebody would give his constituents all the reasons justifying such action.

EVEN on those rare occasions when a public utility has been able to get a rate increase promptly and with no publicity, and without any opposition showing up, there is always a serious question of whether the company may not be borrowing trouble in the long run. There are some cases where there are sound reasons for haste and a minimum of expensive or dilatory procedure—as in the case where a utility is faced with a wage increase or tax increase and is simply seeking a compensatory rate increase to offset the outlay and keep it even. But even in such situations a full explanation of what is going on, disseminated as widely and as early as possible, is the best assurance against subsequent charges that the utility is try-

ing to cover up something, or put over a fast one.

Not long ago an important public utility company in one of our large eastern cities found itself facing something like that, much to its surprise and discomfort. It seemed that under a peculiarity of state law where no opposition was registered to the filed tariffs, the utility was permitted to put them into effect without even a public hearing. The utility's management in this case went into a huddle and soberly decided to waive the technical advantage and asked for hearings anyhow. The hearings were held and there was publicity to support the utility company's position. Eventually the rate increase was granted. Certainly the utility commission was in a better position, after the hearings were held, than if hearings had been dispensed with, under a technical interpretation of the law.

ADVANCE preparation for rate cases sometimes produces other puzzling complications. Not long ago another large city utility, seeking a rate increase, went through all the motions of contacting key people in advance, just as suggested earlier in the article. Imagine its surprise when complaints were made that it was trying to frighten off opposition and thereby defeat the statutory jurisdiction of the commission. As a matter of fact, it was simply



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trying to avoid a multiplicity of protestants. Such complaints are not common, and certainly not justified where the utility company is really engaged only in trying to promote a better understanding of what it is seeking to do in a rate case. If, for example, a certain industrial consumer threatens to intervene through a misunderstanding that a proposed rate increase adversely affects him when, as a matter of fact, it does not touch him at all, it would seem to be the duty of the utility company, as well as common horse sense, to tell him so. And in that way both the consumer and the utility company would save time.

CONSIDERED in a broad light, even the so-called "nuisance" opposition can serve a useful purpose in a rate case. If the "nuisance" opposition cannot be headed off in advance through proper information and explanation, it is much better ventilated than suppressed. In the latter case,

it can fester and subsequently blow up under circumstances when it cannot even be answered properly.

Intelligent opposition, on the other hand, serves in a negative way to justify and outline the utility's case, assuming that the utility is laying all its cards on the table. It sharpens the issue, clarifies the objective, and leaves the utility commission in a position of deciding on the basis of all the information available instead of a carefully cultivated segment of it.

IN conclusion, it might be said that the public hearings before a utility commission (including the preparation for such hearings) suggest some interesting possibilities in making public utility regulation more effective. Certainly it is an instrument which has been obscured, if not neglected. It is an instrument which may well merit more study of its potentialities by both the regulators and the regulated.

"The Light That Won't Burn Out"

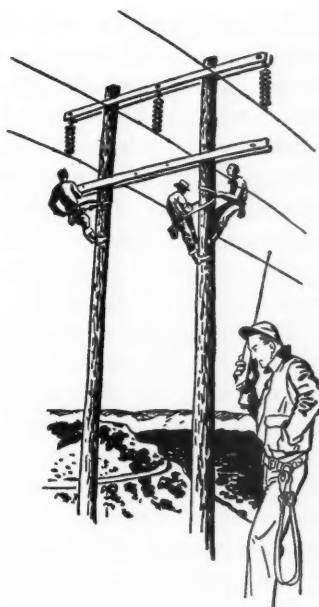
"NEARLY 40 billion electric lamps have been produced since that first light and the next fifteen years will see the production of as many more. Electricity has moved into nearly every home, into virtually every phase of life as we know it today. It has changed the way of life of the nations. It has opened new horizons.

"Because it has been with us for so long, because it is so much a part of our lives, we sometimes fail to realize its importance. There are occasionally reminders when a fuse blows or when a storm tears down power lines. Then radios and televisions are silent, clocks fail to function, temperatures rise in refrigerators; ironers, washers become useless. For it is electricity that invests them with the life that makes our own lives more abundant. And the electricity was first distributed to make Edison's lamps glow. All the rest followed.

"And it is electricity that offers unlimited vistas of the future. Out of the incandescent lamp of 1879, great changes have come and others will come."

—EDITORIAL STATEMENT,
Los Angeles Times.

Setting up Utility Services in Greenland



In these days of jet planes and broken sound barriers, the old saying "East is East and West is West" is becoming subject to serious qualifications as to timing. But even more startling is the trend toward round-the-year establishments and permanent settlements further and further towards the North Pole. Our government has gone ahead with plans for such establishments in Greenland for defense purposes. This means carrying utility services to a land which scarcely had a vestige of them before.

By DR. SVEND FREDERIKSEN*

How often have public utility people, confronted with the consequences of a past mistake in plant planning or past policy decisions that went sour, wondered what it would be like to build a public utility service entirely "from scratch"? There are very few places in the world so desolate or primitive in their organization that such an interesting project could be managed—certainly not many in

which American public utility interests are likely to be involved.

But it is a fact that Greenland, the great subcontinent of the North Atlantic and Polar sea, seems destined to become the crossroads of the increasingly important Arctic region. Already the American Air Force has completed its fabulous base at Thule. Already commercial airlines, starting with the Scandinavian line, have sampled the distance-cutting savings of transpolar flights. This makes northern airfields

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and supply bases an inevitable development of the Arctic landscape in the near future. Already our air defense authorities, working with plans and techniques established by telephone companies and allied communications industries and manufacturers, have ringed the Arctic with radar and other alerting devices for protection against a surprise enemy attack over the roof of the world.

These bases will require setting up living quarters for maintenance crews and other people, including many American people who will have to operate them. It will mean building houses and organizing transportation and public utility services, under conditions which have never been previously coped with to any extent. Such a routine planned project as stringing an ordinary line of telephone or power poles creates puzzling problems when the earth is too hard for conventional earth boring equipment and where the freeze and thaw of shifting terrain complicate alignment and maintenance.

BUT the most challenging fact about this frontier of the atomic age and the jet plane is that much of it is virgin. Although its history goes back to the legendary Vikings, Greenland until recent years has been virtually devoid of commercial transportation inland or other public utility services as we know them. These are all jobs which will have to be done from scratch.

Still another interesting factor in the development of Greenland and other Arctic regions which may fall within the orbit of these various transpolar influences is the plain fact that the whole Arctic is warming up. The rate has accelerated since 1900, according to all indications. Within

another half-century the ice may melt out in the Arctic ocean in summer. The implications of this possibility are tremendous. The northern coasts of Canada, Greenland, and of the Soviet Union would be fully open to commerce. The folks in Greenland will have to shed their walrus skins and come down to plain tweeds. Will they, like our Canadian cousins of today, take to the telephone with a record-breaking amount of daily conversations? Barley is being grown as a crop in Iceland; an attempt is being made to grow cotton in Canada. And meteorologists say that over the past century the annual temperature along our North Atlantic coast line has increased two degrees.

How about the other utility services? In a matter of a few decades, given rising temperatures, what kind of utility services will have to be supplied to this new frontier? Greenland has just recently passed from colony status to that of being a part of the realm of Denmark. It was accorded full representation in the Danish Parliament by special provision in the Danish Constitution of July, 1953. Its air base and other concessions to the United States establish virtual islands of extraterritoriality within the Danish realm under the protection and practical control of the American government.

While Greenland is presently a country of vast distances and scant population—28,000 persons scattered in 185 communities along the coast line—what about two to three decades from now? Fishing and sheepherding have already replaced the older traffic in seals. The country has no illiteracy. Health services and housing have expanded. A system of district courts has been established.

SETTING UP UTILITY SERVICES IN GREENLAND

Habitation and Population

GREENLAND is the so-called largest island of the world. It occupies an area about the size of the United States east of the Mississippi. However, modern science has revealed by soundings of the icecap that at some places under the huge ice masses there is no land, so that it is more correct to speak of Greenland as a complex of large islands. The present ice-free part of Greenland is not inconsiderable and could be compared with the size of Great Britain. As will be explained later, even the vast ice desert cannot be regarded as unimportant.

The native population of more or less homogeneous Eskimo racial descent numbers about 25,000 souls, and is by far the largest Eskimo body of people of the world. It roughly equals the number of Eskimos in Siberia, Alaska, and Canada together. Further, the native birth rate in Greenland is very high, especially in East Greenland, where almost all of the native population is of "pure" Eskimo blood.

To the above-mentioned number should be added an unknown total of human beings of pronounced European descent, Danish civil employees, American soldiers, etc. This addition will run up into thousands, but very probably by far still a minority compared with the native Eskimo population.

The distribution of the population is rather stable. There is a clear tendency to seek the larger inhabited places, so that these centers may develop rapidly. This process has been encouraged by the Danish government. The old Eskimo pattern of habitation was strongly influenced by the pursuit of seal and the population was accordingly located relatively close to the sea and not at the bottom of the long deep fjords. In contrast to this, the old medieval Norse habitations were situated mostly at the inner part of fjord complexes. Seal have become scarce and have migrated away from South Greenland.

It will probably amaze readers that not only the Danish buildings but also most of the homes of the native Greenland Eskimos are neat frame houses of Scandinavian style. You will find no snow "igloo" (except in the polar regions for hunting purposes). In the towns and villages, names of streets and street numbers do not exist. Everybody knows one another, and the house sought for would easily be found. A few of the larger main towns of the districts have over 1,000 in population. The capital of Greenland, Godthaab (in Eskimo, Nûk), has about 2,000.

Transportation Service

THE numerous fjords in the mountainous country, which mainly runs west-



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east or east-west, are a severe hindrance to north and south travel. The main mode of transportation has always been by sea. The Norsemen more than a thousand years ago navigated in Greenland waters. They even sailed as far as Thule in the polar regions, where the present U. S. base is located. The Eskimos had their umiaks—family boats—and qajaqa (kayaks), slender one-man hunting boats. The population has always been linked closely to the sea, depending very much on what it could yield. Formerly it was the seal; now, in the last decades, with changing climatic conditions, fish has become the main livelihood. Rowboats, motorboats, and cutters have more or less supplanted the old graceful Eskimo craft.

THE domestic traffic along the coast from district to district is still carried on by smaller ships, adequate enough to sail between the coast of the mainland and among the numerous islands and skerries. Overseas transportation is conducted by larger ships. In the beginning of the century sailing ships were still in use; nowadays steam and diesel motor ships are crossing the northern Atlantic. But the increased traffic by sea is desperately in need of lighthouses and other navigational aids.

Today in southern Greenland dog-sled driving is an impossibility; there is simply not snow enough. In North Greenland sleds with dog teams are frequently in use all through the winter. The dogs are arranged in a fan formation (unlike the Indian teams, where the dogs run two by two behind each other). The pulling force and working conditions in this arrangement and the special construction of the harness permit a better utilization of strength and driving. Nevertheless, driv-

ing by dog team is a slow process, however romantic it may seem. There ought to be another solution of this old-fashioned way of transportation, which is a northern parallel of the horse-drawn carriage, now obsolete in so many places in the world. It should not be difficult for modern technology to displace the slow dog teams with motor-driven sleds.

IN modern times, the airplane has been increasingly important. Danish officials and their families fly in and out, and in case of serious events, such as epidemics, the planes can bring speedy help. For the central Danish government in Copenhagen, contacts—even personal—with the various branches of the administration are carried out quickly and efficiently across the ocean. This is quite a difference from the author's childhood, when it would take months for sailing ships to make the crossing. Also, airplanes have been quite active for scientific purposes over Greenland.

Aerial photographs have been made, which have resulted in an improved and exact map making.

The roads or highways are extremely few and often not very good. There is no long-distance traffic on land. The mountainous nature of the country, with its indenting fjords, makes land traffic very difficult; even the traditional sled drivers in North Greenland prefer routes on sea or lake ice. The problem of adequate roads will—at least in some certain parts of the country—undoubtedly have to be dealt with, if modern living standards are to be established. It seems certain that roads and streets in the towns and villages have to be organized along modern lines, not as a casual, random development.

SETTING UP UTILITY SERVICES IN GREENLAND



"HOW FAR WOULD THE COMMISSION LET US RUN LINES IN RESPONSE TO A PETITION?"

Communication Services

JUST before the American Civil War the possibilities of laying a telegraph cable from the American continent to Europe via Greenland were investigated. The arrival of several foreign cable route study ships in the harbor of Godthaab, the capital of Greenland, was an event described in Eskimo in the old Greenland Eskimo periodical *Atuagagdliutit* (a periodical initiated at that time by the highly educated Danish governor, Dr. Hinrik Rink). A Greenland Eskimo made a stone (lithographic) picture of the ship for the publication. However, the plan, which could have brought Greenland in close and speedy communication with Europe as

well as the U. S., was abandoned.

It was not until the twenties of this century that constant telegraphic contact between Denmark and Greenland was established by wireless stations in Greenland. As a result of this, also radiotelephonic communication has become possible. Telegraphic contact with all the larger inhabited places is frequent. Moreover, there is a radio broadcasting station in Godthaab, which broadcasts programs in Danish and in Eskimo. Danes, as well as Greenland Eskimos, have receivers in most inhabited places. The telephone system is, however, still primitive and is used at the larger inhabited places mainly for official purposes. It is local service and a general

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long-distance system does not exist as yet. Increased use of telephone service over large areas is a must for the future. The educational level of the Eskimo will not act as a brake on such development.

Many Eskimo communications circulate as mimeographed publications. For a relatively small population, this is very efficient. Further, it must be realized that in the absence of telephone service, the Greenland Eskimos write an infinite number of letters to one another in their own language. They have in common a very impressive and clear handwriting. Their education has for centuries been better and on a higher level than that of many aboriginal peoples, who more often have had none at all. They are also taught Danish. (Some of the highest educated natives master it.) Few Eskimos have a command of English.

Light and Heat

IN the old primitive times, fire was produced by friction between a rotating stick and another piece of wood. But, of course, very early during the colonization matches were introduced. The Eskimo stone lamp (carved soapstone, containing blubber oil and a wick) not only lighted but also heated the one room of the house. Food was also cooked above this stone lamp. The Danes—and many Eskimos—have up till now used a more complicated brass lamp, for which blubber oil could be used. As electric plants here and there have been established, electric light has to some extent become available, but not enough for it to be said to be a general utility service available to the whole population.

In 1949, the Danish government issued general regulations for installation and

use of electricity.¹ This clearly anticipates an increasing use of electricity throughout the country. The change of climate has brought new sources of income to the country. Factories or plants of various kinds are rapidly developing. This necessitates having power supply at the working places—and in the homes. Heating in the stoves has up till now been commonly provided by such fuels as peat or lignite coal from a coal mine in North Greenland. Central heating, employing radiators or ducts, has been used very little, perhaps because it saves fuel only to heat a very limited number of rooms. Even in Denmark itself, stoves are very commonly used.

Water and Other Living Requirements

WITH regard to water supply, utility service has not been developed as such. The reason has been that people themselves draw water at one of the many neighboring rivers, streams, or lakes; even snow or ice is used. The problem of mass water supply has to be solved more satisfactorily for meeting future needs.

In polar areas lakes freeze solid. Building upon frozen tundra—permafrost—involves great difficulties. The Greenland Eskimos often build their houses on solid rock. In parts of Greenland there are magnificent undeveloped rivers and waterfalls, which could be harnessed for hydroelectric power. In southern Greenland, such utilization should have come long ago. All over Greenland there is plenty of fresh water—somehow it should be possible to use the abundant existing sources of fresh water for drinking water supply. When new

¹ They are to be found in Danish in the government publication "Kundgørelser vedrørende Grønlands Styrelse" Nr. 1 1949, pp. 124-131.

SETTING UP UTILITY SERVICES IN GREENLAND

habitations are planned the above-mentioned conditions should be taken into consideration.

The United States has constructed a new Arctic military installation designed to sink slowly into the soft snow of the Greenland polar icecap. Constructed by the U. S. Army Corps of Engineers for the U. S. Air Force and under the terms of a Danish-U. S. defense agreement, the new installation is the first that has been designed and built for continuous use on the icecap. The polar cap of ice and snow, estimated at some places to be more than 10,000 feet deep, is too soft to support standard building, and a packing action of the icecap tends to pull structures down within its depths. Army Engineers of the East Ocean division therefore employed the submarine pressure-hull principle and built the buildings of tubes 18 feet in diameter of varying lengths. Hooked together at the ends and with interconnecting passageways, the over-all structure is balanced like a ship to go down into the snow slowly on an even keel at the rate of several feet a year. Personnel move in and out through submarinelike hatches.

INSIDE the tubes are quarters, mess hall, recreation room, kitchen, and equipment for several score men and a heating

system which maintains an interior temperature of 72 degrees above zero, while the outside temperature goes as low as 75 degrees below zero. A medical service supervisor is always present in the building equipped with a small dispensary. Cards, ping-pong, records, and movies provide recreation for the isolated airmen.

Heating and electricity are supplied by diesel generators fueled from 55-gallon drums that are often air dropped, while water is obtained by melting snow in a huge fuel-powered melter.

FOR a rational utilization of modern life and work in Greenland (other than the icecap area mentioned above) an abundant supply of electricity is a must. So much a must that quick repair work and alternate facilities should be ever ready at hand. Even the smallest clusters of isolated habitations should have electricity available. Only in this way could specialists, technicians, workers, and essential materials be made available.

Hydroelectric power plants and steam plants with near-by coal could be integrated for supplying electric energy to load centers far away. The existing supply or setup of electricity in Greenland is not even sufficient for the present population.



Q "ATTENTION must be focused on two main types of services most in demand in Greenland. Those are air transport and electricity. Atomic power harnessed for peaceful purposes should be applied early in Greenland, where it in so many respects could do immense good. Freight aircraft can also be used and developed to much better advantage in the Greenland transport and traffic. The more air freight, the bigger and faster commerce in peace, the greater and speedier aid in bringing war goods."

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Greenland has majestic, picturesque, mountain scenery of unparalleled beauty. It is definitely a tourist attraction, but has not yet been discovered as such. It needs promotion badly. Accommodations for tourists would be a natural development requiring modern utility-type services.

Climatic Change

GREENLAND has the oldest documented history in the western hemisphere. In medieval times, the country was warm enough for a Norse agricultural economy, of which we see many signs remaining. Then a cold spell drove the Eskimos from farming to fishing. When the Greenland Eskimos in our days have been forced to change their main livelihood from hunting to fishing, this is unmistakably a sign of a recurrence of the beginning of conditions of the climate, which made the historic known agricultural era in Greenland possible. Already some agriculture—cattle and especially shepherding—has in later decades developed in the southwesternmost part of Greenland (in the district of Julianehaab).

Various species of fish have moved hundreds of miles farther north into Greenland waters. The huge quantity of cod alone constitutes an almost unbelievable source of richness. Fleets of foreign vessels are taking large quantities of fish outside the territorial sea. Also, the Greenland Eskimos get a notable catch, but lack sufficient investment, organization, tools, bigger seagoing or seaworthy vessels. Industrial plants to take care of the treatment of the fish are developing, which will require more labor inland and the establishment of public utilities.

Instead of partly depending on a natural economy, which was the case when the seal

was the major source of livelihood, the population has to depend on a money economy—a change which is indispensable in modern life. This may well pave the way for modern financial operations and investments in Greenland.

NO matter how we look at Greenland, the altered conditions themselves demand further and largely extended industrialization, and as a consequence increased demand for public utilities. With the continuation of the warming-up process, it is obvious that Greenland—for centuries almost completely a virgin land—can no longer avoid exploitation of its resources for the benefit of mankind.

Of course, such a big country as Greenland would not be without minerals. We have seen that already regarding the production of cryolite, a sodium-aluminum fluoride required in the reduction process in addition to bauxite aluminum ore mining, which during the war was important to the airplane industry. Nature's warming-up process in the far North and modern techniques facilitate access to further exploitation along this line.

In the time of the medieval Norse colonization (there was undoubtedly a Celtic influx, but space limitations forbid going into that here) the crossroads between the old and the new world was in Greenland. This is also the case today, especially as transpolar air operations become more and more commonplace. Such operations will be necessary for commercial and industrial purposes in peacetime, and they will be imperative during war.

During the two world wars attention to the strategic importance of Greenland increased steadily. Not only was Greenland considered important for information

SETTING UP UTILITY SERVICES IN GREENLAND

on weather (weather observation stations operate at various localities in Greenland), but also from Greenland bases the convoys carrying war materials could be protected. The airway from Greenland via polar regions is relatively close to the predominantly heavy industrial areas of both America and Eurasia.

Compared with Greenland, Alaska is actually of *less* strategic importance in peace as in war to our country. In the hands of an enemy it would be more dangerous were Greenland captured, than if Alaska was overwhelmed. The lines of communication are much longer from Alaska than from Greenland.

ATENTION must be focused on two main types of services most in demand in Greenland. Those are air transport and electricity. Atomic power harnessed for peaceful purposes should be applied early in Greenland, where it in so many respects could do immense good.

Freight aircraft can also be used and developed to much better advantage in the Greenland transport and traffic. The more air freight, the bigger and faster commerce in peace, the greater and speedier aid in bringing war goods. Where ships go with difficulty, or would not be able to go at all, the airplane can. Many airports would be required to meet the situations arising from peace or war. An enlarged commercial and industrial activity would certainly need many airports for support.

In case of war, contact with the native population involves two very important factors: (1) knowledge of their country and environment; (2) making the best use of their good educational standards and intelligence. Eskimos—and not at least Greenland Eskimos—have a marvelous,

sometimes it seems miraculous, aptitude for mechanics.

The Danish government has for centuries carried on an increasingly dubious policy of isolation of the native population, giving as the reason that it wanted to protect it. This was possible in eras where Greenland, in the mind of civilized peoples, was far away and supposed to have no influence on major world events. But now it is very much otherwise.

Atom bomb or no atom bomb, the newly planned radar chain being built in the far North is very important. It may be useful for peaceful purposes, too, as it can be made to serve the needs of aviation and thus the financial outlay can serve a double purpose of peace and defense.

Organization Problems

A FINANCING system is indispensable. The governments involved must take the first steps and co-operate. Here our Congress and federal government should have good arguments for a quick beginning. Friendship and dollars can obviously do much, if wisely and morally applied. American private enterprise can also be used in the detailed scheme of financing and in this way ease the burden on the taxpayers.

We have seen how America before the Civil War shrank from setting in operation a transatlantic cable via Greenland, although elaborate preparations had been made. Greenland must certainly have been deeply in the mind of the government at that period of time, as even American purchase of the country was contemplated. Serious inner weakness—added to technical difficulties to overcome the obstacles of nature—must have been a hindrance for carrying through a plan on a line of com-

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munication—a plan which at so early a time had the understanding of the importance of Greenland to us. Now it is many, many times as important for us to help to develop Greenland. We do not have the same difficulties behind our borders as then; nature is by far not so inhostile as then; and technology is far more advanced in our times.

But it must be admitted that in any such undertaking great difficulties still have to be overcome. Our best technicians and scholars could be used to outline the details of the complex of the plan. Yes, scholars as experts would be necessary for a planned work—and while the work is undertaken. We must know about the country, the people, the conditions, the environment, and a lot of other things. It would all take a considerable amount of money.

OUTSIDE Russia, Denmark, Norway, and England have their Arctic institutes. But we should not forget the Arctic institutes of our own hemisphere, which have not been adequately supported to date. The headquarters of The Arctic Institute of North America is in Montreal, Canada, with branch offices in New York and Washington, D. C. The Catholic Uni-

versity of America has its own Arctic Institute on its Washington, D. C., campus. There is much basic research to be done in Arctic fields. The activities of our Arctic institutes should be given adequate financial support. An appeal to the American people and to their leaders in Congress for support from private and government sources would benefit the Arctic institutes. Little can be gained in letting vital research work go to waste or fall behind other countries in scientific contribution.

A BIG undertaking such as the one we have been discussing, which will give Greenland so great a push onward in mechanization, industrialization, and civilization, cannot fail in a large measure to dig into the soil of Greenland.

It should be remembered that Greenland has a long and venerable history, which goes back into the dim pre-Columbian past. We should look at the history of Greenland as a history which predates our own American history. Development in Greenland should, therefore, preserve ancient artifacts. There are many relics in Greenland from centuries before Columbus, when Norse European civilization once dominated.

The Cost of "Cheap Power"

"... I think that many of us in Charlottesville (and New York city and Atlanta and Denver) finally have received an inkling that we are paying the bill for so-called cheap power in places like Memphis and Seattle. What the citizen of Memphis saves on his electric rate, a fellow citizen in New York makes up in his taxes and in the higher rate which he must pay to an investor-owned electric company which turns over to the taxgatherer 23 cents or more from its every dollar of revenue."

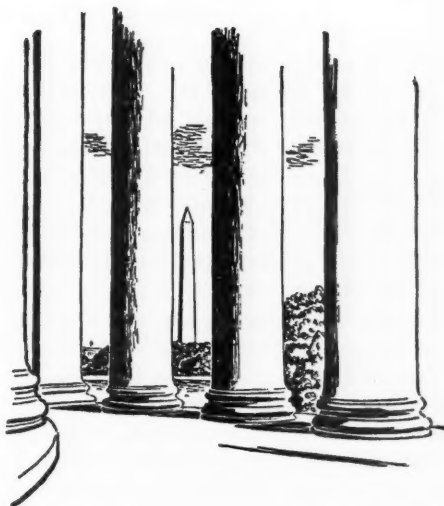
—A. J. G. PRIEST,
Professor of law, University of Virginia.

Washington and the Utilities

TVA Fiscal Reforms?

PERHAPS more significant than the dollars and cents difference in appropriations which the Eisenhower budget may mean for the Tennessee Valley Authority is the possibility that TVA might have to make some basic changes in its way of operating and figuring costs and expenses. The 77 per cent cut which the President called for in TVA funds for new construction, as compared with the amount granted to TVA, for the current fiscal year, is simply the result of the tapering off of the TVA construction program.

It is a hard fact that the past three Congresses have failed to authorize new plant construction by the TVA itself at Fulton, Tennessee. It was primarily because of this refusal of Congress to OK the expansion of TVA that the Eisenhower administration had to look elsewhere for additional power to supply both the TVA area and the Atomic Energy Commission requirements that resulted in the controversial Dixon-Yates contract—whereby business-managed utility interests would build a plant at West Memphis, Arkansas, to replace power furnished by TVA directly to AEC.



Whatever may be the fate of the Dixon-Yates contract, it is obvious that TVA will have to look more towards private power sources than to the government to meet increased power needs in its operating area, unless the 84th Congress should reverse the verdict of three previous Congresses and give TVA's own plant and expansion program a green light in the form of additional appropriations. The President's budget proposals were evidently predicated on the proposition that Congress would not change its mind about this and so provided no appropriations for new TVA power generation units in fiscal 1955 or 1956.

A TOTAL of \$27,550,000 required for fiscal 1956 would be used to complete installation already started and to take care of construction (about \$6,500,000) of TVA transmission lines to pick up power to be generated at the proposed Mississippi Valley Generating Company (Dixon-Yates) plant. This modest amount compares with the \$120,000,000 granted TVA for the present fiscal year and \$188,546,000 for fiscal 1954. TVA's total operating program for 1956, however, will involve

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\$316,237,000. This includes the new appropriation (\$27,550,000), plus \$248,276,000 derived from the sale of power and fertilizer products, and cash capital reduction. These arrangements, plus the 600,000 kilowatts to be provided AEC from the Dixon-Yates plant, would enable TVA to increase its power capacity 80 per cent within five years.

The present Congress may not be quite so much inclined to go along with fiscal reforms envisioned by the Eisenhower budget for TVA. Under this program, TVA would not only pay interest on the use of the taxpayer's money but also find new ways to pay for additional plants, if necessary, without further appropriations from Congress. The authority has been requested to complete its studies for financing future expansion (probably through issuance of revenue bonds) in time to permit consideration by the present Congress of any legislation that may be necessary. All of these proposals are expected to encounter stiff opposition from the public power bloc in Congress.

DEMOCRATIC Senators Gore (Tennessee), Kefauver (Tennessee), Sparkman (Alabama), and Neuberger (Oregon) already have served notice that they will attempt to block appropriations for transmission lines to connect the TVA system with the new Dixon-Yates plant. But Chairman Anderson (Democrat, New Mexico) of the Joint Committee on Atomic Energy, a bitter foe of the Dixon-Yates plant, said he would be in favor of the appropriation unless Democrats in Congress can find a way to block construction of the plant, which is doubtful.

The total amount requested for U. S. Bureau of Reclamation construction — \$142,341,000 — is about \$9,000,000 more than was requested for the fiscal year of 1955, which ends next July 1st. Most of

the increase, however, will go for new starts on five reclamation projects which have no power features.

Strategy of the Dixon-Yates Fight

As for the Dixon-Yates squabble, it seemed to be generally assumed by critics of the contract that the Securities and Exchange Commission would approve the deal some time before the contractual deadline of February 15th. But they evidently were not so sure they had the votes to put through a general resolution, which had been planned for both houses of Congress, condemning the contract. So, the Joint Committee, by party vote (10 to 8), rescinded the waiver of the 30-day review voted by the previous committee.

More likely to succeed, as a roadblock, would be the plan to have the House Appropriations Committee deny TVA funds for constructing a transmission line which would connect the Dixon-Yates plant with the TVA system. Chairman Cannon of the House committee insists that his recent reshuffling of subcommittees, so as to establish a new public works subcommittee to handle both AEC, TVA, and other public power project appropriations, had nothing to do with political strategy of the public power bloc in its fight on the Eisenhower public power policies.

But the plain fact is that the new subcommittee is heavily loaded with public power proponents and headed by Cannon himself, who has always gone along with public power spending even when economizing on other matters. So the chances are the committee could cut the TVA line-building funds to implement the Dixon-Yates deal if it so desires. This of itself would not stop the Dixon-Yates plant construction from going ahead, and since it would take more than two years to build, the denial of funds for connecting TVA lines might not be very decisive.

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One other shot in the gun of the Dixon-Yates foes is the possible court appeal from the expected SEC decision approving the contract. But this also would not be likely to stop the actual plant building.

Other Federal Power Funds

THE total amount requested for the Bureau of Reclamation—\$175,916,000—is about \$13,500,000 more than was requested for the fiscal year of 1956. Most of the increase, however, will go for new starts on five reclamation projects which have no power features. The budget also includes \$20,000,000 to enable the bureau and the Corps of Engineers to participate in water development "partnership" projects. Five million dollars of this amount is proposed for three multiple-purpose projects containing power facilities in the Pacific Northwest to be installed by local interests. Another \$5,000,000 would go for starts on the Upper Colorado river storage project and the Frying Pan-Arkansas project.

There would be no new construction money for either the Southeastern Power Administration or Southwestern Power Administration (SPA). Completion of SPA's entire transmission system and service facilities to connect new customers is expected during the current year. Payments for the purchase of power and wheeling charges, formerly provided by a continuing fund, will be taken out of SPA's appropriation for "operation and maintenance" (\$1,134,000). Last year SPA was given for this purpose a total of \$1,765,000. Army Engineers' multipurpose projects, including power, would get \$207,520,000—down \$15,000,000 from this year, with no new starts.

Construction funds for the Bonneville Administration would be reduced for the fiscal year of 1956 (from \$24,300,000 to

\$16,400,000). The administration, furthermore, wants legislation authorizing a business-type budget for BPA so as to provide for direct use of power revenues to repay the Treasury for the federal investment in power facilities and help defray the cost of the agency's operation and maintenance expenses. A million dollars is budgeted for a survey to determine if the Passamaquoddy (Maine) Bay tidal project could be economically developed. For rural electrification and rural telephone loans, there is some increase. The administration wants \$230,000,000 in over-all new lending authority—\$160,000,000 (up \$2,500,000) for electrification loans and \$70,000,000 (up \$5,000,000) for telephone loans.

Slow Start on Gas Bill

WHILE spokesmen for the gas and oil industry continue to inveigh against the consequences of the Supreme Court decision in the Phillips Case, the expected proposed bill to exempt gas producers from FPC jurisdiction failed to make an early appearance in Congress. This does not indicate that congressional supporters of such legislation have given up or were faltering. On the contrary, it indicated careful, back-of-the-scenes preparation.

One Texas Congressman, Representative Ikard, made statements early in January about introducing such a bill. But Washington observers were inclined to the view that the main forces were mobilizing behind an effort to secure "outside" sponsorship. This would mean bills introduced by Congressmen from other than gas-producing states. When such bills do materialize, it is also likely that they will be planned for prompt handling.

One thing was fairly certain in both houses of Congress. That was that the expected gas bill would be heard by full committees rather than subcommittees.



Favorable Trend Seen in Recent Rate Decisions

A DEFINITE trend is in evidence among certain state regulatory bodies and courts to recognize more clearly the need of telephone companies to earn a fair return on the fair value of their investment, according to W. G. Wright, president of the General Telephone Company of the Southwest. This is particularly important, Wright noted, if the flow of new money into the telephone industry from equity investors is to be maintained and thereby permit keeping abreast of service requirements and in step with modern developments in the art of telephony.

In reviewing some recent decisions of regulatory commissions and courts in telephone rate matters, Wright cited several pertinent examples:

(1) The Arizona Corporation Commission, in granting a rate increase to the Mountain States Telephone & Telegraph (Bell) Company, recognized a fair value rate base together with a rate of return on such rate base which allowed for a projection of expected results for two years into the future. Also, an added earnings allowance was made for the effect of "attrition" over the same period; i.e., the continued rising costs *per telephone* under inflation for such items as investment, depreciation, and taxes.

Wire and Wireless Communication

(2) The New York Public Service Commission granted the Rochester Telephone Corporation a major rate increase, in connection with which Commissioner Glen B. Bedenkapp stated:

It would be little less than tragic at this critical juncture in its (Rochester company) forward progress, if the company were denied the means to attract, on reasonable terms, the large volume of additional capital it requires for the fulfillment of its ambitious program.

(3) The Michigan supreme court affirmed a lower court decision, holding that rates prescribed by the Michigan Public Service Commission for the General Telephone Company of Michigan were "unreasonable, unlawful, and confiscatory." As a result, the telephone company is continuing to collect under bond the full amount of the increase originally applied for pending commission compliance with the supreme court ruling. The court's ruling also held that "every reasonable effort should be made by the commission to pass judgment on facts that will not only reflect upon the present but a reasonable period in the future."

(4) The Ohio Bell Telephone Company was recently granted by the state commission an increase in tariffs amounting to

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86 per cent of the amount requested. In the state of Ohio, the utilities are allowed earnings predicated upon a reproduction cost new rate base.

SUMMARIZING the rate increase granted to all companies in the General Telephone system during 1954, Wright stated that the increases represented an increase in gross revenue of over \$4,000,000 annually. The General Telephone system operates 1,800,000 telephones in 21 states.

It is significant, Wright said, that despite this trend elsewhere in the United States, in the three largest rate cases in which decisions were handed down in recent months on applications made by the General Telephone Company of the Southwest before the state commissions in Oklahoma and Arkansas, and the city commission in San Angelo, Texas, no recognition was given to current-day costs in the rate base, nor was the rate allowed on these restricted rate bases adequate to allow the company to attract new capital for investment in those areas.

Michigan Court Comments On Regulatory Lag

THE impact of regulatory lag on utility earnings was the subject of a constructive decision recently handed down by the Michigan supreme court. The decision upheld an appeal of the General Telephone Company of Michigan from an order of the Michigan commission allowing only partial rate relief. The commission had allowed a \$660,000 rate increase as compared with a company request of \$1,100,000. A lower court turned the case back to the commission with instructions to grant additional rate relief on the basis of testimony showing increased expenses totaling \$401,535 for 1952. As a result of regulatory lag, the estimated return had

dropped from 6 per cent to 4.2 per cent. The commission refused to go along and insisted that the company start a new rate application so as to get in new evidence.

The Michigan supreme court ruled that a commission cannot establish a retroactive rate to correct an injustice caused by a delay of rate relief in the past. It added as follows:

... When failure to provide adequate rates in the past cannot be remedied by retroactive orders, it follows that every reasonable effort should be made by the commission to eliminate unnecessary delay and to pass judgment on facts that will not only reflect upon the present but a reasonable period in the future. The commission failed to meet this test not only at its hearing but failed again when the testimony received before the court was transmitted to it, and it was in error in informing the court that the company's "remedy in this regard is simple and expedient; namely, the presentation of a new rate application to this commission for the proper determination of such facts affecting its revenues, expenses, and services as have occurred since the close of the record upon which our order was based." The commission was in error in refusing to consider the testimony transmitted by the court . . .

THE Michigan high court also ruled that the lower court, which permitted the rate actually requested by the company to go into effect under bond, had "properly exercised its general equity jurisdiction to protect the company from confiscatory rates during the interval that the court realized must elapse between the time the commission refused to give consideration to the testimony regarding the impact of its order upon the company during 1952 and the time when said commission would give that consideration."



Financial News and Comment

By OWEN ELY

Illinois Commission Allows 5½ Per Cent Return

ABOUT a year ago the Illinois Bell Telephone Company filed an application for a rate increase of about \$25,000,000, or an increase of about 9 per cent in the company's intrastate rates, and this was disapproved in its entirety by the commission on January 13, 1955. The commission pointed out that in April, 1953, an increase of over \$16,000,000 had been granted, and that since 1947 total rate increases exceeding \$70,000,000 had been allowed. However, no comparison of this amount was made with the inflation in wages and other costs during the postwar period.

It may be of interest to analyze some of the commission's reasoning in the present case. In former years the commission gave little or no consideration to fair value, until ordered to do so by the

supreme court of that state in a previous Bell telephone case. In the present instance the commission allowed a fair value figure, which was apparently a simple average of net book account and net reproduction cost new. This amounted to 115 per cent of net book account (original cost). In a previous case, however, fair value had worked out at 132 per cent of net book. Why the substantial difference in the two percentages? A careful study of both decisions would be necessary to arrive at the answer, but it is significant that the commission's present valuation of the property exceeds the valuation found in 1953 by only \$41,000,000, whereas the evidence indicated that net additions to plant in the intervening period totaled \$108,000,000.

THE commission allowed plant under construction and plant held for future use to be included in the rate base, but cash working capital was excluded, contrary to general precedent. In this connection the decision (page 12) stated that the minimum balance for tax accruals was over twice as large as the claim for working capital, and that there was no question of using funds earmarked for payment of taxes as working capital. "A comparison of current assets with current and accrued liabilities shows that the latter

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exceed the former, resulting in negative net working capital."

The commission allowed only 5.5 per cent as a fair rate of return in contrast with rates ranging from 5.8 per cent to 5.95 per cent in other recent utility cases in Illinois. This was apparently based on the earnings-price ratio data presented by its own witness, which figures were not adjusted for underpricing, cost of security issuance, or "investor expectations." Dr. Torgerson, commission witness, presented studies to show that the average rate of earnings on the market value of average capitalization during 1951-53 was 5.2 per cent for 19 operating electric companies and 5.6 per cent for six listed telephone companies. Interest and dividends paid provided a 4.4 per cent return on market value for the electric companies and 4.9 per cent for the telephone companies.

THIS method of computing cost of capital is reminiscent of the "bare-bones" method in the controversial FPC gas rate decisions of 1952, which caused so much adverse comment and which was later substantially modified by that commission. It apparently makes no allowance for the bona fide cost of issuing new securities and for the necessity of setting a lower-than-market price in order to sell large blocks of new securities to investors. In the case of common stocks, such cost in many cases might well exceed the "going market rate" by 10 per cent or more, as has been demonstrated many times. Such is the ostensible justification for fixing return as low as 5.5 per cent. Company witnesses had testified that a fair rate of return would be between 6.6 and 7.5 per cent, contending that rate of return should be adjusted upward to offset "economic depreciation" (or excess depreciation resulting from inflation).

How would the allowed earnings have

worked out if applied to an original cost rate base, with an addition of say 4 per cent to allow for working capital? Taking original cost as 100 per cent, this would have meant a rate base of 104 per cent instead of 115 per cent of original cost, or a reduction of nearly 10 per cent. This is almost an offset to the reduction in rate of return from 6 per cent to 5½ per cent. In other words, if a fair rate of return is 6 per cent, which is a general rule of thumb in rate cases, the commission has in effect allowed a fair return on original cost only—apparently turning its back on fair value. In fact, the result is even more severe than the above suggests since new plant added in future will earn at only 5½ per cent, and by thus failing to pay its own way will further dilute earnings on the present equity.

Public Power Projects

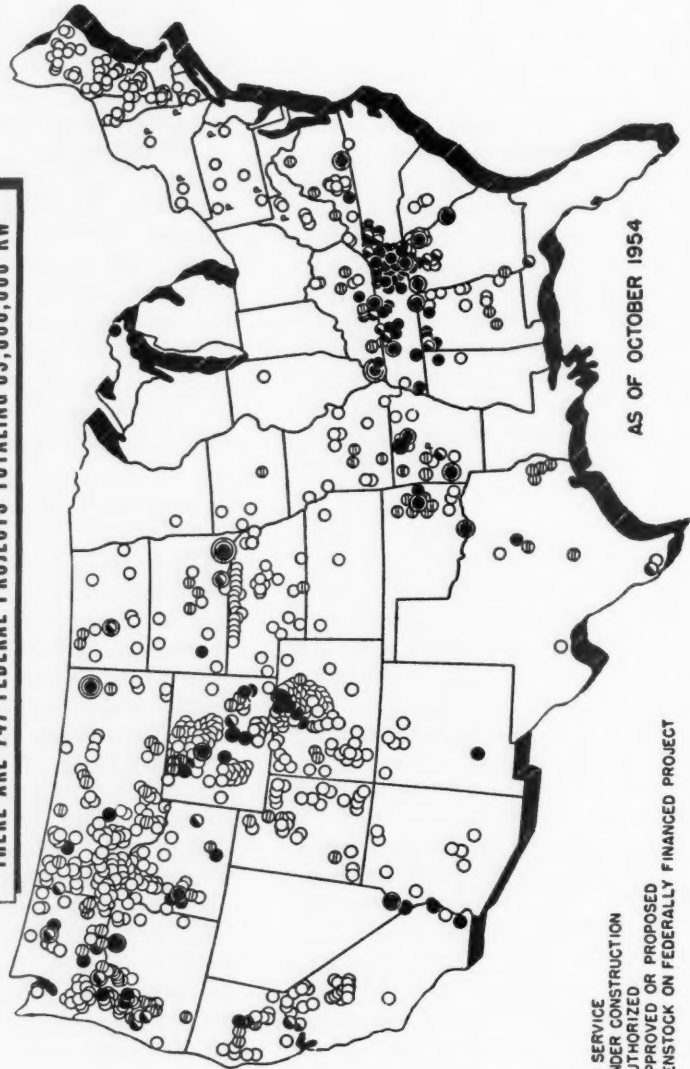
THE accompanying chart on page 210, which was prepared by Ebasco Services Incorporated, indicates that despite the more conservative policy of the Eisenhower administration, as to starting new federal power projects, there were still 747 federal power projects totaling 69,000,000 kilowatts "on paper" as of October, 1954 (not including co-op and state power projects). However, only a small part of these are in service or under construction; a large proportion are still in the "approved or proposed" category. Only 3,441,900 kilowatts, including four projects formerly authorized and seven formerly approved or proposed, had been removed from the federal program: 400,000 kilowatts were abandoned, 437,400 kilowatts are to be built by private electric companies, and 2,604,500 kilowatts will be built by nonfederal public bodies.

The table on page 211 is a comparison of the current situation with the status in

LOCATION OF FEDERAL PROJECTS INVOLVING ELECTRIC POWER

CO-OP AND STATE POWER PROJECTS NOT INCLUDED

THERE ARE 747 FEDERAL PROJECTS TOTALING 69,000,000 KW



AS OF OCTOBER 1954

- — IN SERVICE
- ⊙ — UNDER CONSTRUCTION
- ⊖ — AUTHORIZED
- ⊕ — APPROVED OR PROPOSED
- P — PENSTOCK ON FEDERALLY FINANCED PROJECT

ES&CO SERVICES INCORPORATED, NEW YORK, DECEMBER, 1954

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1946 (excluding REA and the St. Lawrence project).

The administration, while anxious to prevent unlimited TVA expansion at the expense of the basic enterprise structure of the electric utility industry, is heavily interested in developing the upper Colorado, although only \$5,000,000 has been requested for this purpose thus far, plus \$1,000,000 to restudy Passamaquoddy. As described in *P.U.R. Executive Information Service Weekly Letter* of January 21st, the new budget includes \$20,000,000 to enable the Bureau of Reclamation and the Corps of Engineers to participate in "partnership" power projects.

Thus, the public power program appears to be modest enough for the present, but it contains great potentialities for future waste of public funds if all the numerous long-range plans still on paper should be pushed aggressively. There is an opportunity here to clear out of the records some of the apparent "deadwood"—meaning proposed but unjustified projects—especially those in New England.

Why a Generous Dividend Pay-out Is Warranted

PRESIDENT J. W. McAfee of Union Electric Company of Missouri, in a recent talk about his company before the New York Society of Security Analysts, gave a well-reasoned "plug" for a generous dividend pay-out policy by the electric utilities.

He pointed out that the electric utilities

differ greatly from industrial companies, and that the utility executive should not be influenced by the experiences of industrial companies. There is practically no possibility, he held, that a prosperous and growing utility will not be able to meet all its equity requirements from retained earnings.

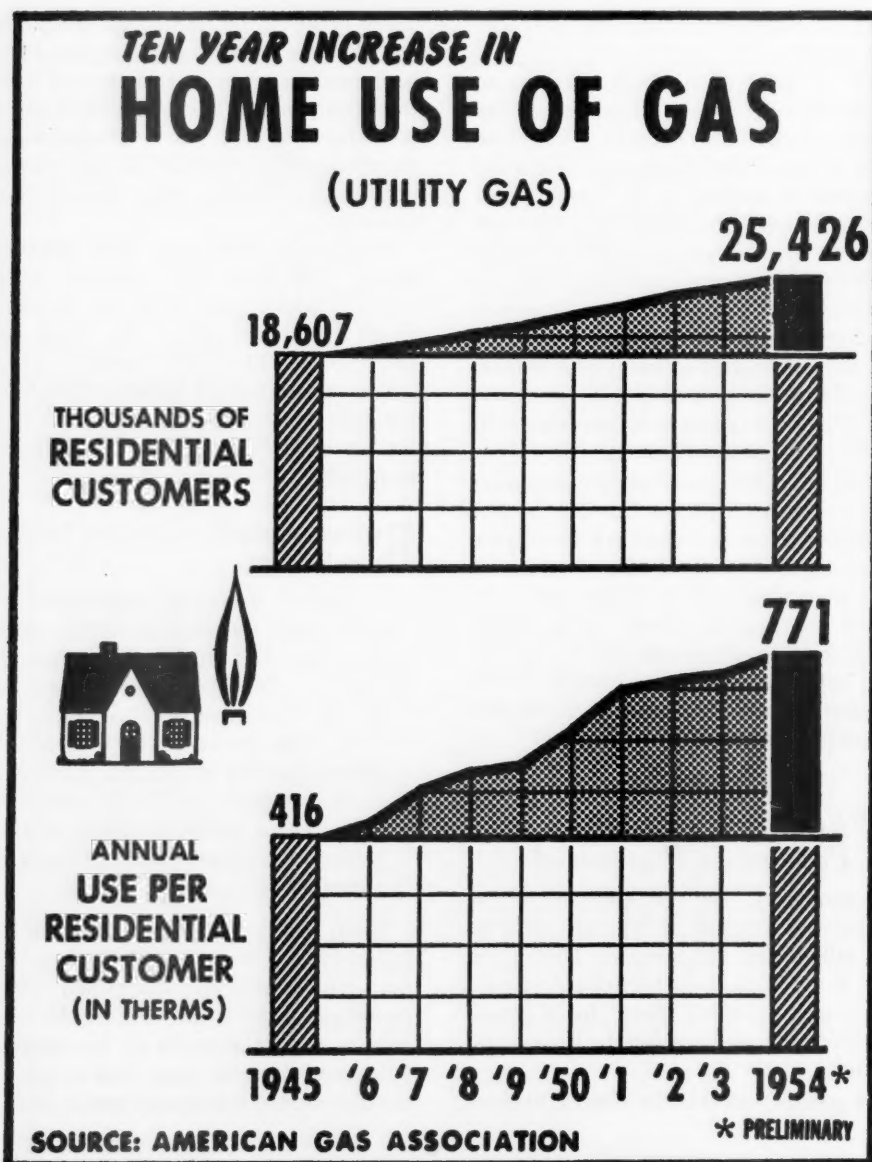
This being the case, two questions occur: (1) Can the company safely rely on being able to secure necessary funds from the public? (2) What dividend policy will produce the best over-all result—utilization of a relatively high percentage of earnings for dividends, or retention of as large a part of the earnings as possible for use in the business?

REGARDING the first question, he stated as follows:

There is a built-in feature that provides some measure of safety. When times are bad the need for capital is reduced. Ours is a slow-moving business so that there is considerable flexibility as to when capital is used. The proven stability of income, particularly from residential and small commercial users, keeps utility earnings at better levels in hard times than those of almost any other enterprise.

Even in the most severe depression in utility history, that of 1929-32, he pointed out, no reasonably diversified electric operating utility was in real trouble or unable to meet the needs of its customers fully, and none of them had to take advantage of the emergency credit facilities

	Millions of KWH		Per Cent
	1946	1954	Increase
In Service	4.9	12.8	161
Under Construction	1.4	6.9	393
Authorized	7.7	9.3	21
Approved and Proposed	10.5	40.0	281
Total	24.5	69.0	182



DURING the past decade, the gas utility industry added an average of 700,000 new residential customers a year, a total increase of 37 percent. In this period, use per customer rose 85 percent, reflecting increased demand for natural gas for house heating and such newer uses as clothes drying, incineration and air conditioning.

created by the government. Hence, he contended, there should always be funds available for investment under the present political-economic system and "if there are such funds . . . our industry will attract its share of them." In any event, a liberal dividend policy can always be changed if and when the need should arise.

REGARDING the second question, there is little doubt that the investor in utility common stocks is yield-conscious, and any substantial reduction in yield would increase the cost of common stock financing. "Furthermore, in a high capital cost regulated industry, I see no way to produce a result that will be attractive to investors without paying out as much as circumstances permit."

Mr. McAfee does not think that investors are much interested in occasional stock dividends. "I can only express regret that the investing public, according to my view, so underestimates the advantages, tax and otherwise, of such a course. The result, however, of this attitude in the market is that we have no intentions, now at least, to adopt such a program."

Of course, it is impossible to set any "normal" percentage pay-out for dividends since each utility has its own characteristics. Moreover, conditions vary from year to year. Union Electric is in an unusually good position to pay out its earnings, Mr. McAfee stated, with a relatively high equity ratio, good growth, and sound prospects, large capital and earned surpluses coming substantially from the breakup of North American Company, and comparatively low construction requirements for the immediate future. The company recently increased its dividend rate from \$1.20 to \$1.40, the latter amount representing about an 85 per cent pay-out, which compares with an industry average around 74 per cent.

Earnings of the Natural Gas Pipeline Companies

EARNINGS of the natural gas pipeline companies are now making a somewhat better showing compared with a year or so ago. In the twelve months ended November 30, 1954 (FPC Release No. 7736), the number of ultimate consumers for the 35 reporting companies increased 4 per cent; Mcf retail sales to ultimate consumers gained 6 per cent, and wholesale sales to other gas utilities improved 9 per cent. Due to rate increases, however, revenues from sales to ultimate consumers gained 12 per cent while wholesale revenues increased 16 per cent, making an average of 14 per cent.

The cost of purchased gas was 17 per cent higher and transmission expenses increased 13 per cent, with total expenses up 17 per cent. Smaller increases in other costs partially offset this, leaving the gain in total deductions at 14 per cent, which matched the gain in revenues. With a substantial increase in miscellaneous income, gross income gained 16 per cent. Against this improvement, however, there was a sharp upswing of 26 per cent in fixed charges: interest on long-term debt gained 21 per cent and the credit for interest on construction was 23 per cent lower. Thus the gain in net income was reduced to less than 11 per cent. Gross plant increased 10 per cent, although construction work in progress as of November 30, 1954, was only \$181,000,000 compared with \$409,000,000 a year previous.

For the month of November the showing was slightly better than for the twelve months' period.

"Public Utilities Perspective"

COMMONWEALTH SERVICES, INC., has recently been issuing a monthly

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publication, entitled *Public Utilities — Perspective*, which is prepared by Michael J. Kraemer. It covers various topics.

Perhaps the most interesting of these studies was the discussion of "Rate of Return," November 9, 1954, issue. Mr. Kraemer pointed out why the rate of return must be adequate to attract new capital, and discussed the cost of raising new money, which is constantly changing.

The leverage in capital structure and the "cost-of-money" concept were analyzed. The famous FPC decisions in the summer of 1952, which followed the over-all "bare-bones" cost-of-money theory, were described.

He pointed out that the rate of return must be relatively high in good years, and gave a number of reasons why the return should not be limited to 6 per cent at the present time.

In the January 20th issue Mr. Kraemer discussed the outlook for 1955, coming to

the following conclusions regarding the general economy:

(a) The FRB index will advance by about 4 per cent to 130.

(b) Gross national product will increase by about 3 per cent to \$367 billion, a new record high.

(c) The price level will continue stable.

(d) There will be no reduction in corporate or personal income tax rates.

(e) There will be no damaging labor strikes in key industries.

FINAL 1954 statistics on electric power have not yet been released by the FPC, but Mr. Kraemer makes some interesting estimates. Industrial kilowatt-hour sales of privately owned companies, including deliveries by Electric Energy, Inc., to the AEC, showed little change from 1953, despite the 7 per cent decline in the index of industrial production.



DATA ON ELECTRIC UTILITY STOCKS

1953 Rev. (Mill.)			1/26/55 Price About	Div. Rate	Cur- rent Yield	Share Cur. Period	Earnings* % In- crease	12 Mos. Ended†	Price- Earnings Ratio	Divi- dend Pay- out	Common Stock Equity
\$223	S	American Gas & Elec.	44	\$1.80	4.1%	\$2.48**	D1	Nov.	17.7	73%	33%
31	O	Arizona Public Service	23	.90	3.9	1.46	20	Nov.	15.8	62	33
8	O	Arkansas Mo. Power	24	1.12d	4.7	1.82	17	Sept.	13.2	62	30
25	S	Atlantic City Elec.	37	1.60b	4.3	2.07	18	Nov.	17.9	77	30
5	O	Bangor Hydro-Elec.	35	1.80	5.1	2.38	24	Sept.	14.7	76	33
4	O	Black Hills P. & L.	25	1.28	5.1	2.12	13	Oct.	11.8	60	23
82	S	Boston Edison	55	2.80	5.1	3.23	8	Sept.	17.0	87	52
18	A	Calif. Elec. Power	13	.60	4.6	.75	D10	Sept.	17.3	80	34
14	O	Calif. Oregon Pr.	30	1.60	5.3	1.82	32	Nov.	16.5	88	40
6	O	Calif.-Pacific Utilities	27	1.40	5.2	2.13**	2	Nov.	12.7	66	29
52	S	Carolina P. & L.	24	1.00	4.2	1.62	12	Dec. '54	14.8	62	32
21	S	Central Hudson G. & E. ...	15	.76	5.1	.95	30	Sept.	15.8	80	37
15	O	Central Ill. E. & G.	34	1.60	4.7	2.10	1	Sept.	16.2	76	31
29	S	Central Ill. Light	47	2.20	4.7	3.11	10	Nov.	15.1	71	39
40	S	Central Ill. P. S.	25	1.20	4.8	1.83	30	Sept.	13.7	66	33
9	O	Cent. Louisiana Elec.	29	1.20	4.1	1.45	3	Sept.	20.0	83	31
27	O	Central Maine Power	24	1.20	5.0	1.86	33	Nov.	12.9	65	30
96	S	Central & South West	33	1.32	4.0	1.90	10	Sept.	17.4	69	35
9	O	Central Vermont P. S.	17	.92	5.4	1.18	34	Nov.	14.4	78	30
89	S	Cincinnati G. & E.	24	1.00#	4.2	1.65	13	Sept.	14.5	61	37
5	O	Citizens Utilities	16	.48a	6.0a	1.05	8	Sept.	15.2	46	38
91	S	Cleveland Elec. Illum.	66	2.60	3.9	3.90	D3	Sept.	16.9	67	44
3	O	Colorado Cent. Power	28	1.20	4.3	1.67	14	Sept.	16.8	72	39
32	S	Columbus & S. O. E.	30	1.60	5.3	1.88	1	Sept.	16.0	85	36
329	S	Commonwealth Edison	47	1.80c	3.8	2.54	12	Sept.	18.5	71	46
10	A	Community Pub. Serv.	23	1.00#	4.3	1.61	D3	Sept.	14.3	62	49

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1953 Rev. (Mill.)	(Continued)	1/26/55 Price About	Div. Rate	Cur- rent Yield	Share Cur. Period	Earnings* % In- crease	12 Mos. Ended†	Price- Earnings Ratio	Divi- dend Pay- out	Common Stock Equity
1 O	Concord Electric	39	2.40	6.2	2.48	31	Dec.	15.7	97	63
55 O	Connecticut L. & P.	19	.94	4.9	1.09	18	Nov.	17.4	86	39
18 O	Connecticut Power	43	2.25	5.2	2.04	D12	Sept.	21.1	110	51
454 S	Consol. Edison	47	2.40	5.1	2.98	1	Dec. '54	15.8	81	43
98 S	Consol. Gas of Balt.	31	1.40	4.5	1.77	3	Sept.	17.5	79	37
158 S	Consumers Power	48	2.20	4.6	3.09	10	Nov.	15.5	71	41
57 S	Dayton P. & L.	43	2.00	4.7	2.87	6	Sept.	15.0	70	35
28 S	Delaware P. & L.	32	1.40	4.4	2.07	14	Sept.	15.5	68	37
192 S	Detroit Edison	34	1.60	4.7	2.00	—	Nov.	17.0	80	47
107 A	Duke Power	52	2.00	3.8	3.36	17	Sept.	15.5	60	52
82 S	Duquesne Light	35	1.80	5.1	2.29	NC	Oct.	15.3	79	32
27 O	Eastern Util. Assoc.	33	2.00	6.1	2.18	D9	Nov.	15.1	92	33
2 O	Edison Sault Elec.	12	.50	4.2	.98	36	Sept.	12.2	51	49
9 O	El Paso Elec.	38	1.60	4.2	2.48	28	Nov.	15.3	65	36
10 S	Empire Dist. Elec.	27	1.40	5.2	2.12	—	Sept.	12.7	66	33
4 O	Fitchburg G. & E.	52	3.00	5.8	2.80	D7	Dec.	18.6	107	53
32 S	Florida Power Corp.	36	1.60	4.4	2.16	19	Sept.	16.7	74	30
70 S	Florida P. & L.	59	1.80	3.1	3.40	25	Sept.	17.4	53	33
156 S	General Pub. Util.	34	1.70	5.0	2.45**	1	Sept.	13.9	69	38
5 O	Green Mt. Power	32	1.80	5.6	2.29	29	Nov.	14.0	79	36
43 S	Gulf States Util.	32	1.40	4.4	1.95	6	Nov.	16.4	72	30
21 A	Hartford E. L.	56	2.75	4.9	3.18	D2	Sept.	17.6	86	46
5 O	Haverhill Elec.	41	2.50†	6.1	2.99	10	Dec.	13.7	84	100
53 S	Houston L. & P.	41	1.20	2.9	2.30	28	Dec. '54	17.8	52	39
7 O	Housatonic P. S.	25	1.40	5.6	1.47	11	Dec.	17.0	95	46
22 S	Idaho Power	54	2.20	4.1	3.54	5	Sept.	15.3	62	35
62 S	Illinois Power	49	2.20	4.5	2.77	6	Nov.	17.7	79	35
35 S	Indianapolis P. & L.	25	1.10	4.4	1.59	2	Sept.	15.7	69	36
17 S	Interstate Power	13‡	.70	5.2	.95	1	Sept.	14.2	74	29
23 O	Iowa Elec. L. & P.	24	1.20	5.0	1.77	12	Nov.	13.6	68	32
28 S	Iowa-Ill. G. & E.	33	1.80	5.5	2.02	D14	Oct.	16.3	89	36
29 S	Iowa Power & Light	27	1.40	5.2	1.80	D6	June	15.0	78	30
25 O	Iowa Pub. Service	16	.70	4.4	1.02	15	Oct.	15.7	69	28
11 O	Iowa Southern Util.	22	1.20	5.5	1.41	D12	Nov.	15.6	85	38
46 S	Kansas City P. & L.	41	1.80	4.4	2.33	6	Dec. '54	17.6	77	35
22 O	Kansas Gas & Elec.	53	2.40	4.5	4.01	20	Nov.	13.2	60	29
34 S	Kansas Pr. & Lt.	22	1.12	5.1	1.57	14	Sept.	14.0	71	28
31 O	Kentucky Utilities	26	1.20	4.6	2.02	19	Sept.	12.9	59	31
6 O	Lake Superior D. P.	38	2.00	5.3	2.83	1	Sept.	13.4	71	36
5 O	Lawrence Electric	26	1.40†	5.4	1.87	18	Dec.	13.9	75	63
67 S	Long Island Lighting	22	1.00	4.5	1.16	22	Sept.	19.0	86	32
39 S	Louisville G. & E.	46	1.80	3.9	3.13	D4	Sept.	14.7	58	34
7 O	Lowell Elec. Lt.	56	3.50†	6.3	3.74	3	Dec.	15.0	94	65
8 O	Lynn G. & E.	30	1.60	5.3	2.14	14	Dec.	14.0	75	73
7 O	Madison G. & E.	41	1.60	3.9	3.13	16	Dec.	13.1	51	53
3 A	Maine Public Service	27	1.60	5.9	2.03	15	Nov.	13.3	79	35
5 O	Michigan G. & E.	37	1.35a	6.6a	2.72	D1	Sept.	13.6	50	31
127 S	Middle South Util.	32	1.50	4.7	2.16	11	Nov.	14.8	69	36
20 S	Minnesota P. & L.	24	1.20	5.0	1.73	D15	Dec. '54	13.9	69	31
2 O	Miss. Valley P. S.	26	1.40	5.4	2.54	20	Dec. '54	10.2	55	29
9 A	Missouri P. S.	37	1.80	4.9	2.60†	—	—	14.2	69	28
5 O	Missouri Utilities	22	1.24	5.6	1.89	14	Sept.	11.6	66	32
31 S	Montana Power	38	1.60	4.2	2.61	1	Nov.	14.6	61	36
118 S	New England Elec.	17	.90	5.3	1.28	5	Sept.	13.3	70	34
38 O	New England G. & E.	18	1.00	5.6	1.36	—	Nov.	13.2	74	36
41 O	New Orleans P. S.	45	2.25	5.0	2.82	10	Nov.	16.0	80	39
2 O	Newport Electric	37	2.00	5.4	2.62	D16	Nov.	14.1	76	34
68 S	N. Y. State El. & Gas	41	2.00	4.9	2.56	3	Nov.	16.0	78	35
204 S	Niagara Mohawk Power ..	31	1.60	5.2	2.04	—	Oct.	15.2	78	35
63 O	Northern Ind. P. S.	32	1.60	5.0	2.38	11	Nov.	13.4	67	33
110 S	Northern States Pr.	16	.80	5.0	1.06	6	Sept.	15.1	75	35
8 O	Northwestern P. S.	16	.90	5.6	1.20	D14	Sept.	13.3	75	27
109 S	Ohio Edison	47	2.20	4.7	2.99	6	Nov.	15.7	74	41
35 S	Oklahoma G. & E.	32	1.60	5.0	2.17	12	Nov.	14.7	74	30
14 O	Otter Tail Power	27	1.50	5.6	2.16	D4	Nov.	12.5	69	30

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1953 Rev. (Mill.)	(Continued)	1/26/55 Price About	Div. Rate	Cur- rent Yield	Share Cur. Period	Earnings* % In- crease	12 Mos. Ended	Price- Earnings Ratio	Divi- dend Pay- out	Common Stock Equity
364 S	Pacific G. & E.	46	2.20	4.8	2.79	7	Sept.	16.5	79	33
39 O	Pacific P. & L.	25	1.30	5.2	1.47	D14	Nov.	17.0	88	27
106 S	Penn Power & Light	47	2.40	5.1	2.88	16	Nov.	16.3	83	29
8 A	Penn. Water & Power	47	2.00	4.3	2.07	D5	June	22.7	97	34
7 S	Philadelphia Elec.	38	1.80	4.7	2.39**	1	Oct.	15.9	75	37
27 O	Portland Gen. Elec.	21	1.00	4.8	1.43	13	Nov.	14.7	70	42
50 S	Potomac Elec. Power	20	1.00	5.0	1.20	7	Nov.	16.7	83	39
56 S	Pub. Serv. of Colo.	40	1.60	4.0	2.38	1	Sept.	16.8	67	34
230 S	Pub. Serv. Elec. & Gas ...	30	1.60	5.3	1.90	NC	Oct.	15.8	84	31
59 S	Public Serv. of Ind.	39	2.00	5.1	2.37	1	Nov.	16.5	84	34
21 O	Public Serv. of N. H.	17	.90	5.3	1.23	38	Nov.	13.8	73	28
8 O	Public Serv. of N. M.	14	.68	4.9	.88	22	Sept.	15.9	77	31
20 O	Puget Sound P. & L.	33	1.72	5.2	1.96	9	Oct.	16.8	88	59
46 S	Rochester G. & E.	44	2.24	5.1	3.11	D10	Sept.	14.1	72	33
12 O	Rockland L. & P.	17	.60	3.5	.68	D4	Dec.	25.0	88	35
7 S	St. Joseph L. & P.	24	1.20	5.0	1.78	5	Sept.	13.5	67	43
36 S	San Diego G. & E.	19	.80	4.2	1.10	22	Nov.	17.3	73	47
7 O	Sierra Pacific Pr.	37	2.00	5.4	2.42	D1	Nov.	15.3	83	31
140 S	So. Calif. Edison	46	2.00	4.3	2.78	25	Sept.	16.5	72	35
29 S	So. Carolina E. & G.	184	.80	4.3	1.32	21	Nov.	14.0	61	28
5 O	Southern Colo. Pr.	15	.70	4.7	1.25	8	Nov.	12.0	56	41
180 S	Southern Company	19	.90	4.7	1.29	6	Nov.	14.7	70	31
13 S	So. Indiana G. & E.	29	1.50	5.2	2.21	17	Nov.	13.1	68	40
3 O	So. Nevada Power	16	.80	5.0	1.39	NC	Mar.	11.5	58	64
1 O	Southern Utah Power	15	1.00	6.7	.92	D28	Nov.	16.3	109	39
3 O	Southwestern E. S.	21	1.00	4.8	1.60	7	Nov.	13.1	63	31
31 S	Southwestern P. S.	29	1.32	4.6	1.54	11	Nov.	18.8	86	30
17 A	Tampa Elec.	24	.93	3.9	1.33	9	Nov.	18.0	70	36
109 S	Texas Utilities	69	2.32	3.4	3.83	21	Nov.	18.0	61	37
34 S	Toledo Edison	144	.70	4.8	1.02	NC	Nov.	14.2	69	32
10 O	Tucson G. E. L. & P.	24	1.04	4.3	1.62	16	Sept.	14.8	64	40
103 S	Union Elec. of Mo.	28	1.40	5.0	1.60	26	Sept.	17.5	88	34
27 O	United Illuminating	51	2.50†	4.9	2.89	6	Dec.	17.6	87	57
2 O	Upper Peninsula Pr.	28	1.40	5.0	2.79	156	Oct.	10.0	50	31
30 S	Utah Power & Light	43	2.00	4.7	2.82	17	Nov.	15.2	71	41
84 S	Virginia E. & P.	35	1.40	4.0	2.20	36	Dec. '54	15.9	64	35
22 S	Washington Water Pr.	35	1.70	4.9	1.90	7	Dec. '54	18.4	89	33
115 S	West Penn Elec.	51	2.40	4.7	3.71	9	Nov.	13.7	65	27
62 O	West Penn Power	50	2.40	4.8	2.86	11	Sept.	17.5	84	33
9 O	Western Lt. & Tel.	28	1.60	5.7	2.29	D10	Sept.	12.2	70	26
22 O	Western Mass. Cos.	41	2.00	4.9	2.94	17	Nov.	13.9	68	52
84 S	Wisconsin Elec. Pr.	31	1.50	4.8	2.00	D7	Sept.	15.5	75	42
32 O	Wisconsin P. & L.	26	1.28	4.9	1.68	1	Sept.	15.5	76	34
30 S	Wisconsin Pub. Ser.	23	1.10	4.8	1.54**	D7	Sept.	14.9	71	34
Averages				4.8%				15.4	74%	

Foreign Companies

\$219 S	American & Foreign Pr. ..	14	\$.75e	5.4%	\$2.40	2%	Sept.	5.8	31%	50%
116 A	Brazilian Trac. L. & P.	8	1.00f	12.5	1.40	D53	Dec.	5.7	71	67
56 A	British Columbia Pr.	27	1.00	3.7	1.47	15	Dec.	18.4	68	—
15 A	Gatineau Power	29	1.20	4.1	1.77	10	Dec.	16.4	68	29
9 A	Quebec Power	26	1.20	4.6	1.57	23	Dec.	16.6	70	44
42 A	Shawinigan Water & Pr. ..	55	1.45	2.6	2.26	17	Dec.	24.3	64	35

B—Boston Exchange. A—American Stock Exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. D—Decrease. NC—No comparable figures available. *If additional common shares have been recently offered, earnings are adjusted to give effect to the offering. Percentage change is in the net income available for common stock. **Based on average number of shares. a—Also regular annual 3 per cent stock dividend, which is included in the yield. b—Also 5 per cent stock dividend. c—Also 1/25 share of Northern Illinois Gas for each share of Commonwealth Edison. #—Also occasional stock dividends. †Estimated. ‡Dec. refers to December, 1953, unless otherwise indicated. NA—Not available. d—Also 8 per cent stock dividend. e—Includes 15 cents extra. f—Approximate equivalent in cash and stock.



What Others Think

Arguments at the FPC Gas Rate Hearings

DURING three days of hearings last month, the Federal Power Commission heard oral arguments on "Principles and Methods to Be Applied in the Fixing of Rates to Be Charged by Independent Producers for Natural Gas Sold in Interstate Commerce for Resale." It will use the information and conclusions given in the testimony to guide it in its regulatory function. The importance of the occasion to all segments of the industry from producer to customer was perhaps best shown in the size of the audience. It overflowed the hearing room.

The following are extracts of testimony chosen both to stand together in summary of the 3-day proceedings and to indicate the basic reasoning behind four expressed views that were, to some considerable extent, contradictory. In order of delivery, they were: (1) those of the independent producer and gatherer; (2) those of the pipelines; (3) those of the distributors; and, finally (4) those of the FPC counsel.

(1)

INDEPENDENT gas producers and gatherers sought blanket-type regulation whereby prices in arm's-length contracts would be declared *prima facie* as reasonable and just. When lawyers tended to reargue the merits of the United States Su-

preme Court's decision in the Phillips Case, they were checked by Commission queries:

Rayburn L. Foster (for Phillips Petroleum Company): You have the task of regulating an industry which cannot be accommodated to utility regulation, and . . . was not intended to be. . . . I would not advise this commission not to exercise the jurisdiction which the Supreme Court says it has; I do advise, however, that the jurisdiction be exercised calmly. . . . Neither the Natural Gas Act nor the Supreme Court says that the commission should reduce any producers' gas prices. . . . Before you start any investigation having for its object the reduction of producers' prices in effect on June 7th, you need to (equip investigators) with your philosophy concerning prices. . . . Cost of service, otherwise known as the utility rate base standard, being inappropriate, what standard should the commission adopt for determining just and reasonable prices? . . . I say value is the only other criteria. . . . If the commission thinks it will be in the public interest to place a low value on gas, it may well establish some method of valuing the gas which will not permit the producers to receive the full price which they could receive and have received in open competition. On the other hand, if the commission believes that it is in the public

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interest to encourage further discoveries and development of gas reserves or to encourage the sale of gas in interstate commerce, then it should be slow to say that the gas producers may not receive what a buyer is willing to pay. . . . For the purpose of determining value . . . there has been some suggestion that I have heard for establishing prices on the basis of the weighted average price in the field. . . . That would not be appropriate to independent producers, however. That would be a reduction in the prices which the producer is able to obtain. It would tie him to prices made years ago by producers in distress when there was no market and would be an arbitrary reduction in those prices.

DAVID SEARLS (for American Petroleum Institute and eight oil and gas associations): Our two suggestions are these: First, we say that you should accept the contracts made in arm's-length bargaining between the producer on the one hand and the pipeline on the other hand; and that you should permit the producer to charge and the pipeline company to pay the prices set forth in those arm's-length contracts. . . . Then, secondly, we say that . . . if, on your own motion, or on the complaint of a natural gas distributing company, on the complaint of a municipality, to a state commission, that certain prices are unjust or unreasonable, this commission then should enter into a full-dress hearing to determine . . . whether the prices in those contracts are just and reasonable, and that in your determination as to whether those prices are just and reasonable, controlling weight should be given to the issue "are these competitive prices?" . . . If you find that they are, then you should uphold those prices as just and reasonable.

Chairman Kuykendall (of the Federal Power Commission): Assuming that you

are absolutely correct that the competition actually does bring about a regulation of price as a matter of fact—as a matter of law, in view of the Phillips decision does it—or can you rely on that?

Searls: Absolutely. The Phillips Case . . . has not decided how you shall regulate price. It has decided that you have jurisdiction to regulate the natural gas producer . . . the fact that you undertake to determine what is a competitive price . . . in no way conflicts with the Phillips decision, or the fact that you are exercising jurisdiction over the natural gas companies.

Kuykendall: Well, why did Congress pass the Natural Gas Act? It was because it felt that competition was not adequate. . . . The Supreme Court has . . . said, has it not, that Congress included the producers . . . as a matter of law. . . . My concern is to find a policy that is not only sound economically, but is sound in law. . . . I have always thought of a competitive price as being an unregulated price. I thought that was what competition was. . . .

Commissioner Digby: I certainly don't think that anything in the Phillips Case deprives the FPC of the right, if it considers it a proper method of determining the price of gas, to give great weight or perhaps total weight to the forces of supply and demand introduced by rugged competition.

REX G. BAKER (for Humble Oil & Refining Company): We will assume . . . but do not admit, that the commission has jurisdiction to fix rates of producers who sell gas in interstate commerce for resale. . . . In attempting to arrive at a principle which would be a guide to the commission in performing its rate-fixing functions, several general considerations . . . are: (1) Any such principle must fulfill the statutory requirement that the rate be just and

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reasonable. (2) Any such principle must result in a rate which is at once fair to consumers, pipeline transporters, distributors, and producers . . . (3) Any such principle must take cognizance of the nature of the gas-producing business, which the commission has recognized as basically different from that of a pipeline company. . . . The so-called rate base method . . . is used in determining rates of interstate gas transmission lines . . . but has proved a failure so far as producing and gathering facilities of such lines are concerned. Under it the interstate line had little incentive to carry on the search for new gas reserves. This method would be wholly unworkable so far as independent producers are concerned. . . . They have no properties or facilities subject to the jurisdiction of the commission upon which to earn a return. They must expend vast sums of risk capital and could not be assured any definite returns on the amount risked. . . . The reproduction cost method . . . would involve a determination of the reproduction costs of the properties and facilities of the company subject to regulation, and allow it a rate which would enable the recovery of operating expenses plus a reasonable return upon the reproduction cost or value of such properties and facilities. This method . . . is inherently unsuited to a national resources industry . . . the weighted average field price or fair field price . . . though it is to be preferred to either the rate base or reproduction cost methods . . . is not suitable for use as a principle of rate making in connection with sales by independent producers. There are several reasons for this: First, a weighted average gives effect to all the prices at which gas is sold in the field, including that moving under old contracts made under distress conditions. The weighted average under such conditions is likely to be, and most always is, far below the current market

or going price. . . . Second, the weighted average field price . . . would disregard price fixed by competition in a free market, would become a frozen ceiling price, and, being below current competitive prices, would definitely deter a producer from making new sales in interstate commerce. . . . It is our suggestion that the commission adopt the contract price principle and issue an order stating that it will accept such rates as prima facie just and reasonable. . . . Such prima facie presumption would extend to all adjustment in the rate provided for in the contract, whether brought about through the operation of clauses calling for periodic increases, most favored nation clauses, or other types of escalation clauses. If and when the contract rate is questioned by an interested party or by the commission, as the case may be . . . the burden should be upon the party contesting the rate or upon the commission where it contests the rate. . . . Producers will sell (more gas in interstate commerce, as demanded by distributors and consumers) only under definite contracts; not scraps of paper that the commission or anyone else will or can throw out the window or disregard. A new philosophy has grown up that a contract means nothing in some quarters. I don't say that this is so.

COMMISSIONER Draper: I don't think you should say that. . . . I don't think that is very becoming. With all due respect to your knowledge.

Baker: We are talking about producers now who are in no sense public utilities.

Commissioner Draper: We have jurisdiction over natural gas companies as defined in the act. The Phillips decision did not give us jurisdiction over producers; it defined these producers as natural gas companies; and that is what we have jurisdiction over.

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Baker: Well, only for the purpose of this argument we have assumed that you have jurisdiction over producers. But you cannot make a cow out of a horse by calling the horse a cow—or the cow a horse.

Draper: No, I agree with you on that.

Baker: And you cannot make a public utility out of a producer simply by calling him that.

(2)

THOUGH more than half of the costs that make up the retail consumer gas rate are those of piping the gas from the gas collection point to the distributor, Panhandle Eastern and the Lake Shore Pipeline companies were the only spokesmen for this segment of the industry.

Panhandle Eastern: Panhandle believes that the commission should retain the basic approach underlying the fair field price method. It has been suggested that this method is no longer appropriate . . . because there is now an absence of non-regulated prices against which to measure the average value. We do not believe that this criticism is valid, because first, although now regulated, those prices were, in fact, established by arm's-length bargaining, and, second, even after the regulatory process has been in operation for some time, so that in a given field a number of the prices may have been established among the producer, the pipeline company, and the commission, rather than merely between the producers and the pipeline company, such prices will still be appropriate standards if they were fairly determined. . . .

(3)

DISTRIBUTING and consumer interests opposed the producer rate regulation proposals and singled out for special disapproval contract escalation clauses. They asked the commission to make thorough

studies throughout the industry to determine a satisfactory basis for rate adjustment.

C. W. Cooper (for Consolidated Natural Gas Company) : . . . We think that you have got to determine this question of rates on a value concept that will take into account the prices that are paid under contracts, the costs of the independent producers, and . . . We say that in arriving at a value for the purpose of regulation, this commission cannot look wholly at the independent producer. It must look also at the situation and ability of the distributing utility to take the gas. . . . How should (rate) increases be treated (by the commission)? The increases are resulting in large measure from . . . renegotiation of contract prices, and the action of these escalator clauses and various types of automatic adjustment clauses. . . . Now . . . we, the distributors down the line and the customers that we serve, have not been parties to those contracts. . . . If we are to be given our fair opportunity to be heard, as we think we are entitled to, then this commission cannot accept the results of contract changes as *prima facie* reasonable. It (FPC) must put the burden on the producer. . . .

RANDALL LE BOEUF (for Niagara Mohawk and Consolidated Edison) : The chaos and disruption which exist in the natural gas industry today . . . lie in the escalator clauses. . . . Now, we are not here seeking a reduction of rates; we are seeking stabilization. . . . The step this commission . . . should take promptly and definitely is to completely wipe out every type of escalation clause from the regulatory process. (The pipelines) don't have an economic incentive to fight those clauses out, and when they have entered into a contract with these vicious escalator clauses . . . even though they differ in quantity of

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evil...they enter...a fool's paradise.... The suggestion of substituting these (arm's-length) contracts as prima facie evidence of just and reasonable rates (is the same as) this commission abdicating its function charged on it by the law, and even going to the unheard of extreme in the utility field of saying that the poor consumer, or maybe only the pipeline (must provide) the burden of proof... not to prove that the rates are not just and reasonable, but to prove that the contract was not entered into at arm's length.... That, gentlemen, is not regulation.... Any rate schedule, including contracts, which requires rate increases based on considerations other than a just and reasonable rate, consistent with statutory and constitutional standards, is illegal.... because they rely on the passage of time, the price paid by others, or other extraneous circumstances.... Now we do not favor original cost for producer rates. Neither do we think the fair field price will work.... I suggest.... you have a duty to be on the side of... the consumers' interest, and to get that interest advanced promptly in the eradication of all forms of escalation clauses.

J. DAVID MANN, JR. (for United Gas Improvement Company): We suggest a method of area pricing in which the commission, after establishing geographical areas... would establish for each such area price ranges. The base price would be a judgment figure. We have suggested that it might be the weighted average price paid for gas by interstate pipelines during a base period which... might be the year 1952. As such it would reflect the reasonable and nonconfiscatory price structure (antedating) the distorted prices which resulted from the favored nation escalation spirals.... The maximum price too would be a judgment figure, closely related to

the average prices recently contracted for by interstate pipelines.... In applying this average price range concept, we insist that no recognition whatsoever should be accorded favored nation and comparable price redetermination clauses.

Jerome M. Alper (for three state commissions and the District of Columbia): The problem before the commission is in reality more than the determination of methods and principles to be applied in fixing producer rates. The fact is that during the sixteen years since the passage of the Natural Gas Act the transmission segment of the industry has been under FPC regulation, whereas the production segment of the industry has operated without federal regulation. The pricing policies applied to each segment of the business have been different. The problem now is to integrate both segments of the industry into a compatible scheme of regulation which is feasible and fair to all. It is probably fair to state that the commission and many of the transmission and distribution companies are not particularly familiar with the problems and economics of the business of producing gas.... If the regulatory principles and price decisions developed are to meet the legal tests of reasonableness and the practical industry tests of soundness, they must be formulated in the light of basic economic facts. These can best be developed in a broad-scale investigation conducted under the direction and supervision of the commission.

(4)

WILLARD W. GATCHELL, general counsel of the commission, offered suggestions, as the hearings concluded, that might guide, but in no way bind the commission in its findings.

Willard W. Gatchell: The natural gas industry is a stable and financially sound industry. We propose to keep it that way.

... The pipeline companies are regulated, the distributing companies are regulated, and if by any means the producers are to be held to their responsibility in relation to the industry under regulation, some sound practical means must be found to hold their rates to what are sound and just and reasonable in order that the pipeline companies and distributing companies may continue to serve the public and maintain their financial stability. . . . Some of those who have appeared before you have referred to escalation clauses. . . . In deciding what producer rates are just and reasonable, it would seem obvious that you must deal with escalation clauses of all types and the effects upon rates and decide not only the legal questions of escalator rating cases, but also the economic impact of escalator rate increases throughout the industry. . . . A regulated company is entitled to rates which are not confiscatory, and judicial review of rate regulation is always available where confiscation is alleged. . . . One result of the prohibition against confiscation would seem to be that the commission may not, in this proceeding, or otherwise, establish a general rule fixing rates in a field or area if it thereby imposes a confiscatory rate on one or more of the companies in that field or area.

Section 5 (a) of the Natural Gas Act calls not only for rates which are just and reasonable but for the lowest rates.

THE standard of just and reasonable is neither vague nor indefinite, but . . . embraces the whole concept of successful and fair operation. It requires an examination of a company's revenues, expenses, earnings, rate of return, and possible rate base, the reasonableness of the items of rate base if the rate base concept is followed, expenses, and income to be expected and allowed. Only by an examination of these items in the light of the statutory

standard will it be possible to determine in a fair and equitable manner the ultimate issue in any rate proceeding; namely, what revenues are necessary to provide just and reasonable rates which are not unduly discriminatory or preferential and which are the lowest reasonable rates obtainable. . . .

WHEN we come to the proposal of the producers that you accept so-called arm's-length bargaining as a substitute for rate regulation, we have a serious departure from accepted methods heretofore utilized for the protection of the public. . . . In none of the cases which have been called to your attention has any regulatory agency charged with rate-fixing responsibility sought to regulate the rates for which it had responsibility by permitting all the traffic will bear. Nor has any court said any such surrender of public responsibility would be compatible with constitutional principles of regulation. . . . You have been asked to take a look at the large producers, and this is sound, for if you set a pattern of regulation in your decisions upon the major contributions to the interstate movement and interstate sale of gas, the other smaller producers must fall in line. . . . I wish I could suggest some simple, effective formula or method by which you could carry out the objectives of the Natural Gas Act in fixing the rates of producers. The fact that none of us has the answer in simple form, however, does not mean that you are necessarily to be thwarted in your regulation. If you proceed first by considering the rates and rate structure of some of the larger companies, it should follow as daylight follows the night that you will eventually see the equitable light which will maintain the financial integrity and soundness of the producer companies and continue the economic health of the industry as a whole. . . .

The March of Events



Demands AEC Take New Vote

SENATOR Albert Gore (Democrat, Tennessee) early this month demanded that the Atomic Energy Commission take a new "formal vote" on whether to commit itself to the Dixon-Yates power contract. The commission already has signed the controversial agreement, but it has not yet gone into effect.

Gore told AEC Chairman Lewis L. Strauss in a telegram that another vote should be taken in view of the recent

recommendation by the congressional Joint Committee on Atomic Energy that the contract be canceled. The committee made its recommendation on strictly party lines. Ten Democratic members supported it and eight Republicans opposed it.

The AEC was reported stalemated over what to do in view of the committee's recommendation. Murray favors cancellation, Strauss supports the contract, and Dr. Willard F. Libby, a new commissioner, argues he should not be involved in the dispute because he is unfamiliar with it.

Arkansas

Utility Legislation

A BILL which would have made public utilities pay the attorney and witness fees of opponents to rate increases was defeated last month by the state house of representatives.

A bill introduced in the state house would prohibit gas companies from disposing by sale or lease of any natural gas

wells now owned, or to be acquired, without express permission of the state public service commission and a showing that their reserves would not be damaged.

The measure was reported to be designed to keep the Arkansas Louisiana Gas Company from selling its production properties. The bill, it was claimed, would save gas users \$3,000,000 annually in rates.

Illinois

Asks Gas Rate Boost

AN increase of \$3,716,000 annually in natural gas rates was requested of the

state commerce commission by the Peoples Gas Light & Coke Company.

The increase, which would become ef-

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fective March 2nd, would represent about 4 per cent of the company's estimated revenue under present rates. It would raise the gas bills of regular Chicago domestic, commercial, and industrial users by an average of 25 cents a month, or a total of \$3,127,000 a year. Interruptible and off-peak customers would pay an extra \$589,000 a year.

The rate increase would cover a scheduled rise of \$3,716,000 in the price Peoples Gas pays for natural gas, James F. Oates, Jr., chairman, said. Natural Gas Pipeline Company of America, one of the company's suppliers and a subsidiary, is asking the Federal Power Commission for a rate increase that would raise its price to Peoples Gas by \$4,640,000.

Iowa

Regulatory Agency Advocated

PLANs to seek the enactment of state legislation providing for the creation of a state public utilities commission were announced recently.

The proposal would substitute a utilities commission for the present state commerce commission and empower it to regulate such matters as rates and financing.

Private and municipal utilities and rural electric co-operatives would come under the proposed agency's jurisdiction.

Under the bill, the new state commission would have five members named by the governor and confirmed by the state senate. They would be paid \$10,000 a year. The present commerce commissioners are paid \$5,800.

Kentucky

Gas Rate Hearings

THE state public service commission recently scheduled a hearing for February 15th on Louisville Gas & Electric Company's proposed \$916,000 annual gas rate increase. The commission previously had suspended the increase for five months from February 1st to allow time for it to hear and consider the application.

The firm had asked that the new rates be made effective February 1st so they would appear on its March bills. It said the increase was needed because of higher

wholesale rates and mounting costs of labor and materials.

The commission continued from February 2nd to March 3rd a hearing on Union Light, Heat & Power Company's application for a gas rate increase. Union originally asked \$384,000 more a year, but, a commission spokesman said, subsequently reduced the request.

The commission continued from February 3rd to February 23rd, hearings on Frankfort Natural Gas Company's applications for gas rate increases of \$91,990 a year and \$9,578.

Missouri

Transit Plan Defeated

THE proposal for a metropolitan transit district—first attempt to deal with the

transit problem on an area-wide basis—was defeated last month in one of the lightest votes in recent election history in St.

THE MARCH OF EVENTS

Louis. It failed to receive the required simple majority in either St. Louis or St. Louis county.

A comprehensive survey of transit needs in city and county was a central provision of the district plan. The mayor and county supervisor are expected to appoint a citizens' committee to survey transit needs and make recommendations.

In addition to the survey of transit needs, the plan would have transferred the regulatory powers of the state public service commission over fares and transit operations in St. Louis to a 7-member transit commission appointed by the mayor and county supervisor.

On conclusion of the survey required by the plan, the commission would have

had to decide whether the transit needs thus revealed could best be met by continued private operation of the mass transit facilities or by public ownership by the district.

The city is served by the St. Louis Public Service Company, which may have competition for its city busses if an application for setting up a new bus firm is granted by the city. An application has been filed with St. Louis authorities to operate 100 or more busses on city streets.

It was not certain whether the city could grant such a permit in view of state public service commission jurisdiction over transit operations. St. Louis Public Service has a permit to operate busses in the city, but not an exclusive franchise.

Pennsylvania

Seeks to Block Gas Rate Rises

THE city of Pittsburgh recently filed an appeal before the state public utility commission in Harrisburg in an attempt to block rate raises proposed by the Manufacturers Light & Heat Company.

Two proposals were filed by the firm on December 30th to raise local rates. The city solicitor and an assistant asked for postponement of the rate increases and a chance to present arguments at a hearing.

One proposal of the firm would raise the rate one cent per thousand cubic feet of all gas consumed in excess of the first thousand cubic feet per month. The city's petition quoted the firm as claiming that this increase would produce \$628,775, which "would recover the cost of increased gas purchases and wage costs applicable to Pennsylvania retail sales." In rebuttal, counsel for the city replied that the "new tariff is not warranted. It would impose an undue burden on householders and on other small consumers, as well as upon commercial users in the city."

The city's other complaint was filed against the firm's proposed new schedule of rates as follows: An increase in the charge for the first thousand cubic feet per month from \$1.50 to \$2 for nonheating customers and from \$2.50 to \$3 for heating customers.

These rates were to go into effect March 5th. The other raises would become effective March 4th. City solicitors said the increases are "unjust, unreasonable, and discriminatory."

New Fares Filed

THE Philadelphia Transportation Company recently filed new tariffs with the state public utility commission, raising fares about \$1,300,000 a year to cover higher labor costs. New rates will become effective March 1st.

The base fare of 18 cents a ride, or two tokens for 35 cents, is unchanged. But the \$1.50 strip ticket, providing 10 rides within a week, will be eliminated and second transfers, now free, will cost a penny.



Progress of Regulation

Commission May Fix Minimum Price for New Stock Issue

THE North Carolina commission authorized a telephone company to issue new shares of common stock to existing stockholders on the condition that it charge \$125 per share rather than the par value of \$100 per share as proposed by the company. The commission held that it has authority to fix the sale price. The commission also concluded that the law does not require that stock issued to stockholders under the pre-emptive rights provision of the company's charter be offered at par only.

The approved price results in an underpricing of about 13 per cent but will furnish a return of 6.4 per cent, an amount deemed fair under existing market conditions.

At this price the company will receive substantially more in equity capital, and thus be able to pay off all of its short-term notes outstanding and still have money left to expand service. The commission observed that every public utility should sell its stock at the best price obtainable, and certainly somewhat near the market value, as long as the price remains within reasonable bounds.

Effect on Ratepayers

The commission considered the effect on the ratepayers of the possible sale of

the stock at par, if they were to be called upon to service more shares than necessary, and the future effect on the estimated cost of common equity for the company in the event of future rate proceedings. It said:

It is common knowledge that the company derives its revenue from the service it renders and out of its rate of return it has to service its debt structure, and it also has to provide some dividend for its equity capital and add something to earned surplus in order to preserve its financial standing, be able to hold its place in the financial world, maintain its credit, and be able to attract additional debt and equity capital when it needs it and at rates commensurable with good financing. If the company is permitted to issue more shares of stock than necessary to obtain the amount of money that it needs when it could reasonably obtain the same amount of funds with far less number of shares of stock, it might well mean that the ratepayers will be called upon to pay rates yielding a higher rate of return than otherwise necessary. Conversely the greater the price received for the shares of stock above par, the lower the cost of the equity capital to the company and the greater the sum of money available to

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render service to the public at the same cost.

The earnings record and past history of the company clearly showed that the issue of stock could be marketed at not less than \$125 per share, and that marketing at such price was compatible with the public interest.

Dissenting Opinion

Commissioner McMahan dissented on the ground that the public would not be harmed by the consummation of the plan to offer stock to stockholders at par. Furthermore, he believed that the offering price was basically a question to be decided

by the telephone company's management.

A commission witness had made it clear that the prime objection to the issue of the stock at par was the "necessity facing the commission of providing rates to support an \$8 dividend." Commissioner McMahan deemed it unwise and dangerous to proceed to adjudicate this case on the hypothesis that dividend rates on common stock are ever fixed or that the number of shares of common stock has anything to do with the rate of return, or that the ratepayers must provide funds sufficient to "service" common capital stock at any "fixed" rate of dividend. *Re Carolina Teleph. & Teleg. Co. Docket No. P-7, Sub 47, December 28, 1954.*



Gas Company's Purchase of Another Gas Company's Stock at Excessive Price Disapproved

KINGS COUNTY LIGHTING COMPANY'S application for authority to acquire a major portion of New York & Richmond Gas Company's stock was denied by the New York commission when it concluded that the proposed purchase price was too high. The price of \$123 per share for the common stock was at least 95 per cent in excess of its real book value on the basis of the company's continuance as a going concern, and nearly 120 per cent in excess of the book value after considering all known factors affecting such value.

Excessive Price

It was deemed obvious that in fixing the price, the company's past earnings, past dividends, or prospective earnings were given little, if any, serious consideration. In fact, the commission concluded that the stockholders fixed the price at the highest amount they believed possible of obtaining, and that the purchasing company was willing to pay that price in order to

compete with an offer made by another company. Commenting upon the excessive price, the commission said:

The proposed acquisition, if permitted, cannot fail to encourage speculative elements to seek unjustifiable profits in securities of other utilities under the jurisdiction of this commission, with resultant discouragement of conservative and desirable investors in such securities. While this commission cannot prevent reckless speculation in the securities of utilities under its jurisdiction, it certainly is the duty of the commission not to encourage such speculation.

Public Interest

The governing statute places the burden on a petitioner to show that the acquisition is in the public interest. Because of its broad aspects a determination of what is "in the public interest" in a specific case is, according to the commission, dependent upon the conditions and circumstances con-

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nected with the proposal under consideration. For example, it said, a factor affecting a proposal by one utility might be held to be in the public interest, while, under the same circumstances, a similar factor connected with a similar proposal by another utility might be turned down by the commission in the exercise of its discretion.

Factors upon which the company based its claim that the present proposal was in the public interest were discussed as to their materiality. The company urged that the proposed construction of a bridge across the Narrows between the boroughs of Brooklyn and Richmond, and the fact that there was adequate and rapid ferry service between the boroughs, were two factors in support of a finding of public interest. The commission concluded, however, that their application to the question of public interest with respect to the acquisition of control of the stock was remote.

Another factor which was held to have little or no bearing on the question of public interest was the claim of the purchasing company that it, having recently been faced with a like experience, could more readily resolve the problem of conforming the other company's balance sheet accounts with sound accounting practices and the standards of the commission. The commis-

sion conceded that the company's problems would have to be solved, but held this to be true regardless of whatever management might be in charge of its affairs.

New Billing Procedure

It was also claimed that conversion of Richmond's present monthly billing cycle to a bimonthly billing cycle, the elimination of merchandising and jobbing activities, and the abolition of free service on customers' premises would reduce operating costs. These were cited in support of a finding that the proposed acquisition was in the public interest.

The commission said that while the proposed changes might, in the long run, result in reduced operating expenses, there was considerable difference of opinion in utility circles as to whether these economies were justified in view of the unfavorable customer relationship which might result. It pointed out that the former management of Richmond retained monthly billing procedure in order to conform with customers' preference and to maintain a minimum amount of working capital. Similar comments were equally applicable to the elimination of merchandising and jobbing activities and the abolition of free service on customers' premises. *Re Kings County Lighting Co. Case 16853, December 21, 1954.*



Supreme Court Denies State's Right to Suspend Interstate Carrier's Highway Rights

AN Illinois statute provided for suspension of the privilege of operating a commercial vehicle upon highways when habitual operation in violation of maximum weight and load limits was established. State officials sought to apply the statute to the interstate operations of a motor carrier. The United States Supreme

Court was called upon to review a carrier's action to restrain state officials from prosecuting it under the statute.

The Federal Motor Carrier Act, the court held, while permitting a state to regulate weight and distribution of loads carried in interstate trucks, did not allow the state to revoke or suspend the rights

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of interstate motor carriers for violation of state highway regulations.

In answer to a claim that without the power to suspend, the states would be unable to enforce their laws, the court said:

It is urged that without power to impose punishment by suspension states will be without appropriate remedies to enforce their laws against recalcitrant motor carriers. We are not persuaded, however, that the conventional forms of punishment are inadequate to protect states from overweighted or improperly loaded motor trucks. Moreover, a commission regulation requires motor carriers to abide by valid state highway regulations. And as previously pointed

out, the commission can revoke in whole or in part certificates of motor carriers which wilfully refuse to comply with any lawful regulation of the commission. If, therefore, motor carriers persistently and repeatedly violate the laws of a state, we know of no reason why the commission may not protect the state's interest, either on the commission's own initiative or on complaint of the state. We agree with the supreme court of Illinois that the right of this carrier to use Illinois highways for interstate transportation of goods cannot be suspended by Illinois.

Castle v. Hayes Freight Lines, Inc. 75 S Ct 191.



Transit Company's Fares and Service Adjusted

THE California commission approved in part a transit company's application for authority to increase fares and revise service on certain routes. Some of the proposed adjustments, such as substitution of shuttle bus service during off-peak hours, and the discontinuance, rerouting, and alternation of certain schedules were allowed. The commission thought that the adjustments would result in a material reduction in operating expense and still afford reasonable service for the volume of traffic.

The company's depreciation schedules provided for a 10-year service life on busses for the purpose of calculating annual depreciation charges. In commenting on the staff's engineer's 12-year estimate, the commission stated:

Depreciation charges necessarily must be re-examined periodically. The estimation of the remaining life involves the exercise of judgment as to the future effect of wear and tear, obsolescence, and public requirements. The remaining

life straight-line depreciation method as used by the engineer has the effect of spreading the cost of the vehicles, less depreciation reserve and net salvage, over the expected remaining life. This method tends to correct any underaccruals or overaccruals to depreciation reserve. The evidence is persuasive that a service life of at least twelve years may be reasonably anticipated for the busses in question and that the calculation of depreciation charges on this basis for rate-making purposes is reasonable. It will be used for the purpose of this proceeding.

The commission felt prompted to point out the definite need, in instances where transportation companies find themselves in poor earning position, for acquainting the public and public officials with the problems involved. "In this case, the interest displayed in the stability of the operations presents an opportunity for developing needed additional patronage and for the solution of other problems through co-

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operative action by management and community leaders which should be fully explored by Key System Transit Lines." *Re*

Key System Transit Lines, Decision No. 50620, Application No. 35309, October 5, 1954.



Electric Company Refused Injunction against Co-operative's Acts

AN electric company attempted to enjoin a co-operative corporation from furnishing energy to members located within the municipality the company was serving. The company had been operating under a franchise obtained from the city but the co-operative had also received a franchise.

Since the right of the co-operative to furnish energy in the disputed area was being questioned, the United States district court noted it must first determine whether or not the company had the right to maintain the action. It assumed, for the purpose of determining such right, that the furnishing of energy by the co-operative in the city area was beyond and outside the corporate powers of the co-operative.

The question of whether or not a corporation has acted in excess of its lawful powers could be raised only by one interested in the corporation, or in a direct proceeding brought by the state. Therefore, a competitor could not question the acts. In considering who could question

the acts of a corporation, the court distinguished between an act which is merely without authority and one which is illegal. Was the co-operative's action illegal as distinguished from being without authority or *ultra vires*? The court held no, since there was no statutory prohibition against members who reside within municipal limits. Nor could the co-operative's actions be considered *malum in se*, or *malum prohibitum*, or against public policy.

Another reason given by the court for holding that the company had no right to maintain the action was legal damage. The company could not claim that a legal, cognizable, justiciable right, or interest had been infringed or invaded. The only damage the company had suffered or would suffer was due to the competition provided by the co-operative. Since both had valid franchises, and neither had exclusive rights to serve the city's inhabitants, the competition was not illegal. *Southwestern Gas & Electric Co. v. City of Gilmer (1954) 123 F Supp 11.*



Authority for Same Service over Different Route Upheld

AFTER the commission had granted a certificate to a bus company authorizing transportation between two cities over a certain route, another bus company which served the same cities over a different route appealed to the Virginia supreme court of appeals.

The protesting carrier objected to the commission's grant on the ground that it was furnishing adequate passenger serv-

ice between the two cities and that public convenience and necessity did not require the competitive service.

The carrier granted the certificate held permits authorizing interstate transportation between the two cities as well as certificates authorizing transportation over all but 23 miles of the proposed route.

The court was of the opinion that the evidence justified the commission's action.

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The question before the commission, said the court, was whether public convenience and necessity required the granting of the certificate. The word necessity, as used in the phrase, does not require an extraordinary demand by the public in order to arise but just means that which is needful, essential, requisite, or conducive to the public convenience.

The protesting carrier cited a statute

requiring the commission to consider existing transportation facilities when granting a certificate. The statute is not applicable, held the court, since it limits the commission's consideration to transportation over the proposed route. In the instant case, the protesting carrier operated over a different route. *Atlantic Greyhound Corp. v. Commonwealth of Virginia*, 83 SE2d 379.



Other Important Rulings

Community Antenna Television. The Wyoming commission, in deciding which of two rival applicants for authority to construct and operate a community antenna television system should be certified, ruled that the public interest would be served if the award were made to the applicant who appeared able to render the higher quality service, to use the more practical methods, to negotiate the more reasonable pole rental contracts, and to obtain the better financial backing. *Re Sheridan Television*, Docket Nos. 9268, 9265, December 22, 1954.

Telephone Return. The Vermont commission authorized a telephone rate increase calculated to yield a 6 per cent return, saying that such return was not excessive but was sufficient to enable the company to attract capital. *Re Springfield Local Teleph. Co. No. 2672*, November 22, 1954.

Ferry Abandonment. The Virginia supreme court of appeals held that a circuit court had no authority to compel a company, to which it had granted a ferry franchise, to continue to operate the ferry indefinitely. *New York, P. & N. R. Ferry Co. v. County of Northampton*, 83 SE2d 773.

Undistributed Refunds. The Missouri commission held that it did not have jurisdiction to determine a question of possible escheat of a part or all of the impounded funds which a gas company had been ordered to refund to ultimate customers but which were not distributed because of the company's inability to locate the parties entitled to the money. *Re Laclede Gas Co. Case No. 12,169*, December 30, 1954.

Reorganization Fees. The Securities and Exchange Commission, in determining the amount of compensation to be allowed for services rendered in a holding company reorganization proceeding, seeks to conserve the estate for the benefit of the security holders while recognizing that inadequate allowances would discourage vigorous and effective participation by representatives of security interests, and in this connection due consideration is accorded the views of the trustee appointed by the court to administer the estate, particularly with respect to the maximum compensation to be allowed. *Re International Hydro-Electric System*, File Nos. 54-159, 54-160, 54-162, 54-164, Release No. 12773, January 11, 1955.

Truck Certificate Granted Railroad. The Mississippi supreme court held that

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the commission could properly grant a railroad, over the protests of competing motor carriers, a certificate to operate over-the-road trucks between certain points where the railroad sought only to transport freight it had formerly hauled by rail between the points in question. *West Bros., Inc. v. Illinois C.R.Co.* 75 So2d 723.

Passenger Train Service Stopped. The supreme court of Oklahoma, in reversing an order denying a railroad authority to discontinue certain passenger train service, said it was unwilling to hold that the convenience and occasional use by a few citizens of the communities affected constitutes general public necessity when over 90 per cent of the affected population live

on main highways and have intercity bus service available, and where 25 per cent of the people own private automobiles. *Kansas, O. & G. Railway Co. v. Oklahoma*, 275 P2d 274.

Federal Court Denies Jurisdiction. The United States court of appeals held that it had no jurisdiction over a motor carrier's action charging another carrier with transportation of property in interstate commerce without obtaining a certificate over a certain highway where the basis of the demand for relief was not predicated upon the federal Constitution and laws but upon unfair competition. *Consolidated Freightways, Inc. v. United Truck Lines, Inc.* 216 F2d 543.

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Public Utilities Reports (3d Series) are published in five bound volumes a year, with the P.U.R. Annual (Index). These reports contain the decisions of the state and federal regulatory commissions, as well as court decisions on appeal. The volumes are \$7.50 each; the Annual (Index) \$6.00. *Public Utilities Reports* also will subsequently contain in full or abstract form cases referred to in the foregoing pages of "Progress of Regulation."

Northern Natural Gas Company

v.

Federal Power Commission

Nos. 14706, 14733, 14743
215 F2d 892
October 7, 1954

MOTION for distribution of funds collected under stay order pending review of Federal Power Commission order denying wholesale natural gas rate increase; refunds ordered and procedure prescribed. See also (CA8th 1954) 5 PUR3d 178, 215 F2d 176

Reparation, § 43 — Funds impounded pending appeal — Affirmance of rate reduction order.

1. Municipalities which paid higher natural gas rates to a pipeline company under a stay order pending review of a Federal Power Commission order disallowing higher pipeline rates are entitled to an unconditional refund upon affirmance of the rate order, since the refund received and retained will be used for the benefit of the ultimate gas consumers in the municipalities, or will be for the benefit of the communities, and thus will substantially fulfil the aim of the Natural Gas Act to protect ultimate consumers from excessive charges, p. 102.

Reparation, § 43 — Funds impounded pending appeal — Affirmance of rate reduction order.

2. Natural gas distributing companies which made no rate increase to their customers during the period when they were paying higher rates under an order staying a Federal Power Commission order disallowing a wholesale rate increase are, upon affirmance of the rate order, entitled to an unconditional refund, p. 102.

Reparation, § 43 — Funds impounded pending appeal — Affirmance of rate reduction order.

3. Natural gas distributing companies which increased rates to interruptible or industrial customers and electric service customers under escalator clause contracts during the period when they were paying higher rates under an order staying a Federal Power Commission order disallowing a wholesale rate increase are, upon affirmance of the rate order, entitled to a refund subject to a duty to refund to such customers the amounts so collected under the escalator clause contracts, p. 102.

Reparation, § 43 — Funds impounded pending appeal — Affirmance of rate reduction order.

4. Natural gas distributing companies which increased rates to firm customers during the period when they were paying higher rates under an

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order staying a Federal Power Commission order disallowing a wholesale rate increase are, upon affirmance of the rate order, entitled to a refund of the higher rates subject to the duty of making a like refund to their firm customers, p. 102.

Reparation, § 43 — Funds impounded pending appeal — Affirmance of rate order.

5. A natural gas distributing company which is subject to municipal rate regulation under a franchise and which paid higher wholesale rates under an order staying a Federal Power Commission order disallowing a wholesale rate increase is, upon affirmance of the rate order, entitled to a refund subject only to such direction and control as shall be exercised by the city under the franchise for the benefit of the ultimate city consumers; but the refund with respect to service in the suburban areas should be subject to the duty to pass the refund on to customers in the absence of sufficient showing of existing power, franchise relationship, or responsibility on the part of a city council or other regulatory body as to such area service to warrant unconditional refunds, p. 103.

Reparation, § 42 — Funds impounded pending appeal — Affirmance of rate order — Interest.

6. Natural gas distributing companies which increased rates to interruptible or industrial customers under escalator clause contracts during the period when they were paying higher rates under an order staying a Federal Power Commission order disallowing a wholesale rate increase, and which, upon affirmance of the rate order, received refunds from the supplier, should include in the refund to customers the amount of interest received from the supplier, p. 104.

Reparation, § 43 — Funds impounded pending appeal — Affirmance of rate order.

7. Natural gas distributing companies which purchased gas for the production of electric energy and steam to be sold as a separate activity and which passed on to users of such products a wholesale gas rate increase should, upon receiving a refund from the supplier upon affirmance of a Federal Power Commission order disallowing the rate increase, make only such refund as it may be required to do by its contracts, or as it may otherwise have committed itself to make, together with any interest received from the supplier, since it is not within the purposes of the Natural Gas Act for the court to engage in collateral concern about reaching the profits which an intrastate distributor may have derived from such activities through the use of gas and the relationship of the price to such profit, p. 104.

Reparation, § 43.1 — Funds impounded pending appeal — Affirmance of rate order — Persons to benefit.

8. Refunds ordered to be made by gas distributors to firm customers, upon receiving refunds from a supplier pursuant to a court decision affirming a Federal Power Commission order disallowing a wholesale rate increase, should be made only to those persons who are still customers of the distributing companies, p. 105.

Reparation, § 44 — Procedure — Filing of reports.

9. Natural gas distributing companies which have received refunds from their supplier subject to their being passed on to the ultimate customers must calculate the amount which each customer is entitled to receive and the

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amount of interest received from the wholesale company allocable to such amount, and must report the same to the court, together with a report of the amount of refunds for those who are no longer patrons of the distributors and the amount of interest received from the supplier allocable to that account; and such report should be filed with the clerk of the court in quadruplicate within ninety days after receipt of the funds and interest from the supplier, p. 105.

Reparation, § 50.1 — Expense of distributing refunds — Report — Methods.

10. Natural gas distributing companies which are required to make refunds to their consumers must file with the court a report indicating the reasonable cost or expense of making the refunds and interest, calculations, and of effecting distribution of the refunds, on the basis of crediting the customer's account in such amount as the court may direct and not on the basis of making the refunds by mail and check, p. 105.

Reparation, § 9 — Court jurisdiction — Reservation of jurisdiction.

11. The court's reservation of jurisdiction with respect to the distribution of refunds by natural gas distributing companies to ultimate consumers includes the right to direct such ultimate disposition of the refunds and interest applicable to persons who are no longer customers of the distributors as may seem just and equitable, p. 106.

Reparation, § 41 — Funds impounded pending appeal — Period of reparation.

12. Gas distributing companies which did not increase rates during part of the period when wholesale rates were increased under a stay order pending review of a Federal Power Commission order denying the wholesale rate increase are entitled to an unconditional refund from the wholesale company upon affirmance of the rate order, but this is limited to that period during which the distributors had not put in effect rate increases equal to the increase paid by them to the wholesale company, p. 106.

Reparation, § 39 — Funds impounded pending appeal — Recoupment of losses.

13. Whether natural gas distributing companies receiving refunds from a pipeline company, upon affirmance of a Federal Power Commission order denying a wholesale rate increase, may apply the refunds and interest, in whole or in part, toward an alleged insufficiency in income or return, for a period prior to their placing in effect their increased rates, is of no concern to the court, in the attempt simply to restore the situation, as equitably and practicably as possible, to the same status as would have existed if the court had not stayed the rate reduction order pending appeal, p. 106.

Reparation, § 42 — Funds impounded pending appeal — Interest.

14. Interest accumulated against a wholesale natural gas company on amounts directed by the court to be refunded to gas distributing companies from funds collected by the wholesale company, under a stay order pending review of a Federal Power Commission order denying the wholesale rate increase, should be cut off as of the date of the denial of the wholesale company's motion for an allowance from the stay funds, since which date the wholesale company was ready to make the refunds as soon as the court so directed, and the delay was due to complications existing in the distributors' situations and to the efforts of the court to resolve them intelligently as a basis for authorizing the distributions, p. 107.

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APPEARANCES: Jay Kyle, General Counsel, Topeka, Kan., for State Corporation Commission of Kan.; F. Vinson Roach, Omaha, Neb., for Northern Natural Gas Co.; Rueben H. Goldberg, Washington, D. C., for Federal Power Commission; P. L. Farnand and G. T. Mullin, Minneapolis, Minn., for Minneapolis Gas Co.; George C. Pardee, Omaha, Neb., for Metropolitan Utilities Dist. of Omaha, Neb.; Raymond A. Smith, Council Bluffs, Iowa, for Council Bluffs Gas Co.; Carl W. Cummins, St. Paul, Minn., for Northern States Power Co.; Norman H. Nitzkowski, Mankato, Minn., John W. Scott, Bradford Ross, Washington, D. C., for Minnesota Valley Natural Gas Co.; Lloyd J. Marti, Lincoln, Neb., for Central Electric & Gas Co.; Carsten L. Jacobson, Assistant City Attorney, Minneapolis, Minn., for city of Minneapolis; Marshall Hurley, St. Paul, Minn., for city of St. Paul; Clement F. Springer and Francis T. Crowe, Chicago, Ill., for Interstate Power Co.; Hubert C. Jones, Des Moines, Iowa, for Iowa Power & Light Co. and Peoples Gas & Electric Co.; John F. Gaston, Jr., Cedar Rapids, Iowa, for Iowa Electric Light & Power Co. and Northwestern Light & Power Co.; Byron L. Sifford and Vernon Myers, Sioux City, Iowa, for Iowa Public Service Co.; Ned Willis, Perry, Iowa, for Perry Gas

Co.; Arthur C. Sidner, Fremont, Neb., for Nebraska Natural Gas Co.; Clayton Kline, Topeka, Kan., for Kansas Power & Light Co.; Rodger L. Nordbye, Minneapolis, Minn., for Minnesota Natural Gas Co.

Before Sanborn, Woodrough and Johnsen, CJJ.

PER CURIAM: These cases came on for hearing on the motion of Minnesota Valley Natural Gas Company, a customer of Northern Natural Gas Company and an intervenor in these proceedings, and nine other customer intervenors¹ for themselves and on behalf of seventeen other customers of Northern Natural Gas Company that have intervened later in the review proceedings herein,² for an order directing Northern to distribute the fund of \$7,641,993.48, which the court finds Northern has collected under the stay order of this court entered herein on December 18, 1952, plus interest at 6 per cent, to the customers of Northern from which the moneys were collected. All of the customers of Northern who contributed to the said fund have intervened and joined in the motion and the amount each contributed has been agreed upon and is hereinafter made the subject of finding by the court.

The stay order herein provided, among other things, that Northern should file a bond conditioned gener-

¹ Iowa Public Service Company; Minneapolis Gas Company; Iowa Power & Light Company; Metropolitan Utilities District of Omaha; Central Electric & Gas Company; Northern States Power Company; Council Bluffs Gas Company; Western States Utilities Company; Perry Gas Company.

² Board of Water, Electric, Gas & Power Commissioners of Austin, Minnesota; Central Natural Gas Company; town of Coon Rapids, Iowa; Elkhorn Valley Gas Company; city of

Guthrie Center, Iowa; Interstate Power Company; Iowa Electric Light & Power Company; Iowa-Illinois Gas & Electric Company; Kansas Power & Light Company; Minnesota Natural Gas Company; Municipal Public Utilities of Owatonna, Minnesota; Nebraska Natural Gas Company; Northwestern Light & Power Company; village of Pender; Peoples' Gas & Electric, a division of Kansas City Power & Light Company; city of Ponca, Nebraska; Public Utilities Commission, New Ulm, Minnesota.

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ally for the refunding, with interest, to the utility distributing companies, intervenors herein, of such revenues as would be collected by it under the stay and to which it might ultimately be determined that Northern was not legally entitled. The order further, however, expressly stated that this general provision for payment was intended merely as a tentative or present direction to Northern and was not to have the effect, as far as the utility distributing companies were concerned, of vesting any right in them to the excess revenues.

The practical object which the court had in mind and its relationship to the accomplishment of the purposes of the act were stated in the order as follows: "The present direction of such payment has been made because the situation, on the hearing of the motion for stay, impressed as being one in which disposition of the question of the validity of the Federal Power Commission's order would be capable of being effected in this court within a comparatively short period of time, so that the stay order as such would not in any event have to be continued long in effect; that it further seemed likely that the utility distributing companies would not have been able during that period to have secured generally from all of the local city councils or other regulatory bodies involved [i. e. those having jurisdiction over the rates of the utility distributing companies] authority to make corresponding increases in their present rates, enabling them to pass on fully to ultimate consumers as a class the amount of the increase paid by them to Northern Natural during the stay period; and that in these circum-

stances and under these conditions, even if some part of the increase paid to Northern Natural might have been able to be passed on by some utility distributing company to some ultimate consumers the amount involved as to any such ultimate consumers individually for such brief period would be so small as not to warrant the court, as a matter of practical judicial administration and in relation to the inaboluteness inherent anyway in any utility sharges [of a distributor subject only to local regulation in its rates] of assuming the burden of sifting out such individual ultimate consumers and attempting to make a trivial or nominal distribution to them."

As a precaution and safeguard, however, against these assumptions not proving to be the facts, under the conditions obtaining at the time the stay should be terminated, the order further provided that the court, in order to prevent any utility distributing company from acquiring what might amount to a windfall or unwarranted enrichment, reserved jurisdiction "to impose conditions upon the acceptance of such funds by any utility distributing company as shall be just and equitable in relation to its consumer customers, such as requiring it as a condition of acceptance and receipt to make refund to its customers, with reasonable allowance [to it] out of the funds and interest so received by it, to cover the cost of such distribution."

And, as an ultimate, contingent protection, the order also provided that, "In the event of any . . . unforeseen complication, resulting in the refusal of any utility distributing company to accept such funds upon the

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conditions fixed, the court may direct Northern Natural to make payment of the excess revenue and interest as to any such particular utility distributing company to the clerk of this court or to a custodian named by the court, instead of direct to such utility distributing company," together with a reservation of jurisdiction generally "to make all orders necessary to effect final and complete disposition of any such funds"

[1] Eight of the twenty-seven distributors here involved are municipalities or municipal corporations, as to which we agree with the position of the Federal Power Commission that an unconditional order of refund and receipt is proper, because, as stated by the commission in its response to the motion for distribution, "in the case of each such entity the sums [of refund] received and retained will be used for the benefit of the ultimate users of gas in the communities served or will be for the benefit of the community," and "The aim of the Natural Gas Act 'to protect ultimate consumers of natural gas from excessive charges' . . . will be, therefore, substantially fulfilled."

[2] Of the other nineteen distributors, two—Kansas Power & Light Company and Perry Gas Company—have made showing that they have made no rate increases to their customers of any kind during the period of the stay, and so have not passed along the amount paid by them to Northern under the stay, and as to these we similarly hold that they too are entitled to an unconditional order of refund and receipt. A third distributor, Council Bluffs Gas Company, has made an increase in its re-

tail gas rates during the stay period but it is shown that this increase did not include the factor of Northern's rate increase under the stay, so that the amount paid by it under the stay has not been attempted to be passed on to its customers, and the city council having jurisdiction of the gas company's rates has so agreed. It is accordingly held that Council Bluffs Gas Company also is entitled to an unconditional order of refund and receipt.

[3] Of the remaining sixteen distributors, six—Iowa Electric Light & Power Company, Iowa-Illinois Gas & Electric Company, Iowa Power & Light Company, Minnesota Valley Natural Gas Company, Northern States Power Company, and Peoples Gas & Electric Company—have made showing that they have made no rate increases during the period of the stay to firm gas customers, but that they did increase rates to interruptible or industrial gas customers, and to electric service customers, under escalator clause contracts, the amount of which increases they are willing and propose to refund. Each of such distributors is held to be entitled to an order of refund and right to receive the amounts collected by Northern from them under the stay, subject to an obligation and duty on the part of each to make refund to the interruptible or industrial gas customers and to the electric service customers involved, of the amounts so collected from them on the basis of and in accordance with their escalator-clause contracts.

[4] This leaves ten distributors, consisting of Minnesota Natural Gas Company, Central Electric & Gas Company, Central Natural Gas Company, Elkhorn Valley Gas Company,

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Interstate Power Company, Iowa Public Service Company, Minneapolis Gas Company, Nebraska Natural Gas Company, Northwestern Light and Power Company, and Western States Utilities Company, all of whom have made some rate increase, in relation to the increase of Northern involved in the stay, to both firm customers and to interruptible, industrial, or contract customers. The increases to the latter type of customers are shown to have been made under an escalator clause in their agreements, carrying with it either an express or an implied obligation to account to such customer for any refund received from Northern of the increase so made by the distributor. Each of such distributors is held to be entitled to an order of refund and right of receipt as to the amounts so applicable to its interruptible, industrial, or contract customers, subject to an obligation and duty on the part of each distributor to make payment thereof to such customers.

As to the amounts collected by such ten distributors from their firm customers or consumers, under rate increases put into effect by them and then passing on, in whole or part, the payments made by them to Northern pursuant to the stay, Minnesota Natural Gas Company has made showing that it is willing and proposes to make refund to its firm customers or consumers of these amounts. Minnesota Natural Gas Company is accordingly held to be entitled to an order of refund and right of receipt as to such amounts, subject to the obligation and duty on its part of making refund to its firm customers or consumers.

As to the other nine of such distributors, all, except Minneapolis Gas

Company, which will be dealt with separately, will similarly, as in the case of Minnesota Natural Gas Company, be held entitled to an order of refund and right of receipt as to the amounts involved in the stay fund which have been passed on by them to their firm customers or consumers, subject to the obligation and the duty on their part of making refund to such customers or consumers.

[5] In the case of Minneapolis Gas Company, it is shown that its operations are carried on under a city division, covering the corporate limits of the city of Minneapolis, Minnesota, and a suburban division, covering the suburban area adjacent to that city. Under the company's franchise in the city of Minneapolis, the rates charged customers of its city division are subject to supervision by the city, through its utility engineer, in that he has the power to alter, amend, or revise any change in rates made by the company, which do not conform, in their result, to the amount of the fixed general allowable return, the prescribed return on cost of additions, extensions, improvements, and betterments, and the fixed return on working capital provided for in the franchise. Such rate increases as have been made by the company during the stay period appear from the affidavit of the city utility engineer to have been made within his supervision and in relation to the duty imposed upon him by resolution of the city council "to advise the city attorney and city council generally in alterations, amendments, or revisions in any change in rates made by Minneapolis Gas Company." Moreover, the city of Minneapolis has directly participated in the proceedings before the

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Federal Power Commission, and as an intervenor in this court, on the rate increase made by Northern that is here involved. It further is shown from the affidavit of the city utility engineer that the city has full knowledge of the amount of the refund for which the company is making claim and that "the city will insist that (the sum applicable to the company's city division) shall be treated in a manner so as to reflect benefits to the full extent of said sum for the ultimate consumers within the city of Minneapolis in a manner that will reduce and eliminate violent fluctuations in the rates charged by the Minneapolis Gas Company." The company also states in its showing that it "makes no claim that it, as a corporate entity, is entitled to said sum for the purpose of increasing the allowable annual return as provided in said franchise ordinances," and that "All of said sum, therefore, will be used by said company for the benefit of the ultimate consumers in the city division, in conformity with the provisions of said franchise ordinance of the city of Minneapolis."

In the local relationship thus existing between the company and the city, from the matter of franchise provisions, right of supervision, and assumed responsibility as to the rates of the company, as well as in view of the knowledge of the city of the amount of the refund here involved and of its expressed intent to deal therewith "in a manner so as to reflect benefits to the full extent of said sum for the ultimate consumers within the city of Minneapolis," we think the purposes of the Natural Gas Act, 15 USCA § 717 et seq., of safeguarding ultimate consum-

ers generally, will be sufficiently and appropriately served by allowing the company to receive the amount of the refund applicable to the city division, subject only to such direction and control thereover as shall be exercised by the city of Minneapolis under the franchise ordinances, for the benefit of the ultimate consumers within the city.

As to the suburban division of the Minneapolis Gas Company, however, just as in the case of the other nine distributors in its class, as previously referred to, no such showing of existing power, franchise relationship, or exercised responsibility, on the part of a city council or other local regulatory body, is sufficiently satisfactorily shown to warrant us in judicially permitting the amount passed on to firm customers or consumers to be received by the company without condition. As to such funds, applicable to its suburban division, the Minneapolis Gas Company will be held entitled to an order of refund and right of receipt, subject to the obligation and duty of making refund to its firm customers or consumers.

[6] All of the preceding provisions herein are expressly made subject to the following expressions, limitations, and conditions, to the extent that they are not inapplicable to any of the situations involved:

(1) All refunds made by any distributor to interruptible or industrial customers, under its escalator-clause agreements, shall include the amount received by such distributor from Northern in interest thereon.

[7] (2) To the extent that any distributor may have used gas for the production by itself of electric energy, steam, etc., which it has been engaged

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in selling as a separate activity, and may have passed on the gas-rate increase involved herein in the sale of such product, the distributor shall have an obligation and duty hereunder only to make such refund as it may be required to do by its contracts, or as it may otherwise have committed itself to make, together with the interest received thereon from Northern. The court does not regard it as being within the purposes of the Natural Gas Act, as contended by the Federal Power Commission, for it to engage in collateral concern about reaching the profits which an intrastate distributor may have derived from such activities, through the use of gas and the relationship of the price thereof to such profit—any more than it is entitled to have concern about what the effect of the refund here involved made to an industrial customer of a distributor may economically be.

[8] (3) The refunds ordered to be made to firm customers or consumers shall have application only to those persons or companies which are still customers or patrons of the distributor. The task of trying to locate persons who are no longer customers or patrons of the distributor involved, the heavy expense incident thereto, and the impossibility in the end of finding a substantial part of such persons, as shown by the court's experience in similar cases in the past, make such an attempt, in relation to the small amounts usually involved in the refunds to such persons, and to the judicial burden resulting, impractical, unfeasible, and unnecessary to an accomplishment generally of the purposes of the Natural Gas Act. The funds which would be applicable to such per-

sons, if they were still customers of the distributor, shall be used and applied as provided for in paragraphs (5) and (7) following.

[9, 10] (4) As to the refunds required to be made to any distributor's firm customers or consumers, the distributor shall calculate the amount to which each such present customer is entitled, and the amount of the interest received from Northern allocable to such amount, and shall make report to the court, before payment thereof, of the total number and amount of such refund payments involved (not names or list of customers), of the total amount of the interest received from Northern allocable thereto, of the amount of the refund in its hands from customers who are no longer patrons of the distributor, and of the amount of the interest received from Northern allocable thereto. Such report shall be filed with the clerk of this court, in quadruplicate, within ninety days after the receipt of the funds and interest from Northern, as hereinafter directed.

(5) The report referred to in paragraph (4) shall also set forth what the distributor regards as the reasonable cost or expense to it of having made the refund and interest calculations, and of effecting distribution thereof, on the basis of crediting the customer's account in such amount as the court may direct, and not on the basis of making refund by mail and check. Upon receipt and consideration of the reports referred to, the court may allow such amount as it deems reasonable, in reimbursement of cost and expense as above indicated, out of the interest, and/or out of the funds applicable to persons who are

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no longer customers of the distributor.

(6) A further report shall be filed with the clerk of this court, in quadruplicate, within six months of the date hereof, by each distributor required to make refunds hereunder to either contract customers, or firm customers, or both, showing the total amount of refund and interest paid by it to each class of customers.

[11] (7) The court reserves jurisdiction to make such further orders in relation to the situation of each distributor as may be necessary or expedient to finally terminate and close the entire matter. This includes the right to direct such ultimate disposition of the refunds and interest applicable to persons who are no longer customers of the distributor, as to the court may seem just and equitable. This reservation is made on the basis of the stay order having been specifically designed to avoid the recognition or vesting of any right in anyone as to the funds involved, except as such rights afterwards should be recognized and established by order of the court, in the light of persuading equities and practical administrative realities. No right is accordingly recognized by the court as existing in any ultimate consumer by virtue of the operation of the stay order, except as herein declared and established.

[12, 13] (8) As to the part of the refund and interest applicable to any calendar month or months of the stay period, during which a distributor had not yet put into effect a rate increase equal to the amount payable by it to Northern for such period on the basis of the stay order, such distributor is entitled to refund and right of receipt, without condition, just as in the case

of the distributors who made no rate increase whatever during the period of the stay. Some of the distributors have contended for a right to apply the refund and interest, in whole or in part, toward an alleged insufficiency in income or return, for a period or periods prior to the placing in effect by them of their increased rates. But that question is not one of judicial concern, in the attempt simply to restore the situation, as equitably as practicably possible, to the same status as would have existed, if the stay order had not been issued. With or without the stay, the relief of a distributor, from the condition of which complaint is now made, if it existed, is one which lay in other fields. We do not at all examine the question of any distributor's income or return, and it is our intention to prevent any part of the returned funds and the interest thereon from being used, or being available to be used, in any manner, to offset or make up for any insufficiency of income or return that was suffered prior to the issuance of the stay order, or that is not directly attributable to having been required to pay Northern's increased rate and having had its revenues diminished to that extent as a result thereof, during the stay period.

In relation to all the foregoing, the court finds that there is due from Northern Natural Gas Company, in refund, to each of the twenty-seven distributors referred to above, the amount set out opposite the name of each below, which amount Northern is ordered and directed to turn over or tender to such distributor, within fifteen days from the date of this order, together with interest thereon from

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the date of the receipt of such funds by Northern to August 17, 1954, as follows:

Board of Water, Electric, Gas & Power Commissioners of Austin, Minnesota	\$104,651.28
Central Electric & Gas Co.	931,707.42
Central Natural Gas Co.	31,126.69
City of Guthrie Center, Iowa ...	743.37
City of Ponca, Nebraska	3,311.84
Council Bluffs Gas Co.	144,328.13
Elkhorn Valley Gas Co.	7,741.65
Interstate Power Co.	105,768.81
Iowa Electric Light & Power Co. (Including Iowa Electric Co.)	302,644.16
Iowa-Illinois Gas & Electric Co.	261,919.39
Iowa Power & Light Co.	573,718.76
Iowa Public Service Co.	571,175.23
Kansas Power & Light Co.	50,571.07
Metropolitan Utilities District of Omaha	648,122.65
Minneapolis Gas Co.	2,025,319.70
Minnesota Natural Gas Co.	51,117.54
Minnesota Valley Natural Gas Co.	317,754.03
Municipal Public Utilities of Owatonna, Minnesota	42,564.28
Nebraska Natural Gas Co.	83,211.66
Northern States Power Co.	938,117.21
Northwestern Light & Power Co.	21,295.08
Peoples' Gas & Electric	321,970.10
Perry Gas Co.	17,259.69
Public Utilities Commission, New Ulm, Minnesota	36,074.53
Town of Coon Rapids, Iowa ..	1,541.08
Village of Pender, Nebraska ...	5,189.01
Western States Utilities Co. ...	43,049.12
Total	\$7,641,993.48

[14] The accumulation of interest against Northern has been cut off as of the date of the denial of its motion for an allowance, in effect, from the stay funds, on August 17, 1954, since which date Northern appears to have stood ready to make the refunds, as

soon as the court so directed. Delay in making the present order of direction, since that time, has been due to the complications existing in the distributors' situations and to the efforts of the court to intelligently resolve them as a basis for authorizing the distributions to be made.

Upon showing made by Northern that the amounts have been paid as herein directed, accompanied by receipts of the various distributors, setting out separately the amount of the refund and the amount of the interest paid, an order will be entered discharging Northern and its surety from any further liability on account of the stay order and the funds collected by it thereunder. Ruling upon the motion of the intervenors for a judgment against Northern and its surety will be reserved and only entered in case this becomes necessary. Acceptance of the funds and interest by any distributor, upon tender by Northern, shall bind such distributor to the conditions of this order, as applicable to it. In the event of the refusal of any distributor to accept the funds upon the conditions herein, report of such fact shall be made by Northern promptly to the court, and jurisdiction is reserved to deal with the situation on the basis of the provisions of the stay order applicable to that contingency.

All of which is so *ordered*.

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Re Central Illinois Electric &
Gas Company

41377-41379, 41412, 41413
September 29, 1954

APPPLICATION by gas and electric company for authority to increase rates; modified increase authorized.

Valuation, § 224 — Construction work in progress — Inclusion in rate base.

1. Construction work in progress should be excluded from the rate base where interest during construction has been charged, p. 113.

Valuation, § 75 — Reproduction cost determination — Evidence of trended original cost.

2. Evidence of trended original cost is pertinent to a determination of reproduction cost, p. 114.

Return, § 87 — Gas and electric company — Electric department.

3. A rate increase designed to produce a return of 5.8 per cent for the electric department of a gas and electric company was considered reasonable, p. 114.

Return, § 92 — Gas and electric company — Gas department.

4. A rate increase designed to produce a return of 5.95 per cent for the gas department of a gas and electric company was considered reasonable, p. 114.

Valuation, § 49 — Trended original cost — Handy-Whitman Index.

Discussion of Handy-Whitman Index used in determining current or reproduction cost by trending original cost, p. 110.

By the COMMISSION: On November 6, 1953, Central Illinois Electric and Gas Company ("company") filed with this commission rate schedules proposed to become effective December 7, 1953, providing for increased rates for electric service, Docket No. 41379; gas service, Docket No. 41378; and water service, Docket No. 41377, in all territories served by it. On November 9, 1953, the commission entered orders in Docket Nos. 41377,

41378, and 41379 suspending said rate schedules until April 5, 1954. On March 16, 1954, the commission by further orders, suspended said rate schedules until October 5, 1954, pending further hearings and a determination.

On December 8, 1953, the company filed two petitions, assigned Docket Nos. 41412 and 41413, requesting authority to amend contracts for gas service with St. Anthony's

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Hospital, Rockford, Illinois, and Lehn & Fink Products Corporation, Lincoln, Illinois, by the addition of purchased gas cost adjustment provisions identical with the proposed Purchased Gas Cost Adjustment Rider applicable to all rates filed in Docket No. 41378. By order of the commission, Docket Nos. 41412 and 41413 were consolidated for hearing with Docket Nos. 41377, 41378, and 41379, and the issues in each of these proceedings may be and are disposed of by this order.

After notice to all interested parties hearings on the proposed rates were held in Chicago, Illinois, on January 25, 26, and 28, April 20 and 21, May 10, 11, 12, 20, 21, 25, 26, 27, and 28, June 17, July 14, 23, and 27, and on August 20, 1954, the consolidated cases were marked "Heard and Taken." Briefs were filed and oral argument made on September 22, 1954.

The cities of Rockford, Freeport, and Lincoln and a group of customers in the Lincoln area entered their appearances in opposition to the proposed increases in rates for utility services furnished by the company in their respective communities and cross-examined the company's witnesses. Leave to intervene, pursuant to petition filed, was granted the city of Lincoln and the Citizens Committee to Oppose Rate Increases, on April 29, 1954. None of the objectors, except the city of Rockford, presented any evidence.

R. B. Thomas, chief engineer of the commission, appeared on behalf of the commission's staff. The engineering and accounting sections of the staff of the commission checked

the purported book figures in the company's exhibits against the company's books and records, made an inspection of the depreciation or per cent condition of the plants and checked the results of such inspection with the evidence in this respect presented by the company and also checked the company's current or reproduction cost estimates. Mr. Thomas cross-examined the witnesses of the company concerning their testimony and exhibits on trended original cost and per cent condition of the properties and offered one exhibit in evidence consisting of data furnished by the company from its records detailing electric production expenses, purchases of natural gas, customers' advances and contributions, and construction work in progress.

The company is a public utility engaged principally (1) in generating, purchasing, distributing, and selling electric energy at retail; (2) in purchasing, storing, distributing, and selling natural gas at retail; (3) in collecting, producing, distributing, and selling water at retail; and (4) in producing, distributing, and selling steam heat at retail. All of the company's services are rendered in the state of Illinois.

The electric operations constitute the largest part of the business of the company, accounting for approximately 66 per cent of the total operating revenues. The territory in which the company furnishes electric service is separated into three divisions, Rockford, Lincoln, and Albion, which are not physically interconnected. The company generates all of its electricity used in the Rockford Division. In the

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Lincoln Division the company purchases a substantial portion of its electricity requirements from two non-affiliated companies, but also maintains and operates a generating station at Lincoln. All electricity required in the Albion Division is purchased from a nonaffiliated company. The company's electric system includes about 2,700 miles of distribution lines and 130 miles of transmission lines. Electric service is supplied to approximately 51,300 customers in Rockford and environs, 15,000 customers in the Lincoln Division, and 2,000 customers in the Albion Division.

Gas service is supplied in the cities of Rockford and Freeport and environs as an integrated operation and also in the Lincoln Division. Natural gas is obtained for the Rockford-Freeport area from the Natural Gas Pipeline Company of America, but the company also maintains and operates propane and water-gas plants in Rockford for the manufacture of gas for standby and peak-load purposes in the area. The gas distributed in the Lincoln area is purchased from the Panhandle Eastern Pipeline Company.

The company furnishes gas service to approximately 41,300 customers in the Rockford-Freeport area, and approximately 2,900 customers in the Lincoln area.

Water service is furnished by the company only in the city of Lincoln to approximately 3,700 customers. Steam-heating service is furnished in a portion of the city of Rockford to approximately 465 customers. No increase in rates has been requested for the steam-heating utility and therefore no findings are made herein thereon, although complete figures were put in evidence by the company with respect to its steam-heating utility plant.

The test year for which the company presented data purporting to support its request for increased rates was the 12-month period ended August 31, 1953. L. W. Esten, vice president and treasurer of the company, testified that as of August 31, 1953, the original cost and depreciation reserves of the company's electric, gas, and water utility plants, excluding construction work in progress, were:

	Electric Department	Gas Department	Water Department
Original cost as of August 31, 1953	\$38,294,282	\$9,165,727	\$691,031
Less reserve for depreciation	7,152,940	1,140,158	219,434
Net original cost as of August 31, 1953	\$31,141,342	\$8,025,569	\$471,597

Evidence of current or reproduction costs and of the observed condition or depreciation of the company's electric, gas, and water utility plants was presented by E. H. Gannon and L. N. Boisen of Stone & Webster Service Corporation, a firm regularly retained by the company to supply engineering, accounting, and other services. Gannon

testified that the current or reproduction cost was determined by trending original costs by accounts and year of installation by the application of the Handy-Whitman Index. Mr. Gannon sponsored Central Exhibit 17 covering tests made of the accuracy of the application of the Handy-Whitman Index in the determination of reproduction

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costs at current prices. The trended original cost of certain electric property accounts, Account 354—Poles, Account 355—Overhead Conductors, and Account 359—Services, was tested against the company's costs experienced in the year 1952. A similar test was made with respect to Gas Plant Account 365—Services. The aggregate trended original cost of the property in such accounts developed by application of the Handy-Whitman Index was \$16,616,419, and the calculated cost of such property using the company's 1952 costs was \$16,609,637, a difference of \$6,782, or 0.04 per cent. Mr. Gannon further testified that he had compared the trended original cost of the company's gas distribution mains developed by the application of the Handy-Whitman Index against the company's average costs experienced during the period 1950 to 1952, inclusive. The result of such comparison indicated that the trended original cost of the company's gas distribution mains was 12 per cent lower than the calculated cost determined from the company's average 1950-1952 costs. Mr. Gannon's testimony showed that comparisons he made of the trends of company costs for common labor used in the construction of gas and electric properties, copper wire, gas meters, electric meters, and poles with the trends for similar items used in the preparation of the Handy-Whitman Index showed that the trends followed much the same patterns.

Ernest C. North, manager of the valuation and estimating departments of Whitman, Requardt and Associates, Baltimore, Maryland, consulting engineers and publishers of the Handy-

Whitman Index, testified with respect to the history of the Handy-Whitman Index, the sources of the data upon which the index is based, and the methods employed in assembling, checking, and converting such data into the index tables as of January 1st and July 1st of each year. North, who has been in charge of the preparation and publication of the Handy-Whitman Index since 1943, related that the index was first published in 1924 by William W. Handy who continued the publication until his death in 1931. In 1932 Whitman, Requardt and Associates assumed the publication of the index for Handy's estate, and in 1950 purchased the rights to the publication, at which time the present title "Handy-Whitman Index of Public Utility Construction Costs" was adopted. North testified that the index contained tables for building construction, for gas plant construction, and for electric light and power construction, each divided into six geographical divisions of the United States. The territory in which the company operates is referred to in the index as the North Central Division. Semiannually prices or trends of more than 150 different items, such as cast iron pipe, steel pipe, meters, and boilers, are obtained from nationally known and reputable manufacturers who have been furnishing such information to the publishers of the index over a long period of years. Prices for materials, such as cement, lumber, brick, etc., which are normally purchased locally by utilities, are obtained from the Engineering News-Record magazine, and are then spot-checked in various cities in each of the six geographical divisions. The material and equip-

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ment prices thus obtained after verification are converted into index numbers. The labor rates used in developing the index are obtained from the Engineering News-Record magazine and the Builders Association of Chicago, both of whom have been publishing wage rates for various locations over a long period of years. Such labor rates are then spot-checked with builders, trade associations, utilities, and other interested organizations in many cities. The labor rates for the North Central Division are based upon an average for five cities, Chicago, Cincinnati, Kansas City, Minneapolis and Omaha. Such wage rates are then converted to index numbers. The index numbers thus constructed for the various items of labor and equipment are then weighted to determine the consolidated index numbers for the various accounts prescribed under the Uniform System of Accounts. The weighting of the components of labor, material, and equipment in various accounts is based upon an analysis of several hundred million dollars worth of utility properties established for the period of 1926 to 1930, inclusive. Such weighting was rechecked in 1950 by an analysis of several hundred million dollars worth of property constructed between 1946 and 1950 and found to be correct. It was pointed out by North that in developing the index numbers for the components for labor, material, and equipment, the effect was to reduce prices and rates to trended factors. Consequently, the similarity of the prices used in the preparation of the index to the prices paid by the company was not as important as the similarity of trends of the company's costs

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to the trends used in the preparation of the index. North testified that he had made such comparisons of the trends of wages for construction labor, electric skilled labor, electric common labor, and gas common labor, and found that so far as the labor elements of the Handy-Whitman Index are concerned the property of the company can be accurately trended by use of the Handy-Whitman Index. Mr. North further testified that from other studies he had made he had determined that the Handy-Whitman Index was properly applicable for trending the costs of the company's property. In this connection he testified that weights of various components of the gas main account used in the Handy-Whitman Index checked with the weights experienced by the company for its Account 363—Mains.

Mr. North further testified that he had examined and was familiar with Central Exhibits 6, 8, 10, and 18A covering the trended original cost of the water, gas, electric, and steam properties, respectively, by use of the Handy-Whitman Index; that he had inspected a substantial part of the properties embraced in the respective accounts of the systems of accounts for utilities as set forth in General Orders 143, 144, and 150 of this commission; that he had considered the index used to trend each such account; that in all but a few instances in the gas and electric accounts the indices used were those designed to be used for the account involved. In a few instances the indices applied produce conservative results because, such indices did not include labor trends which have increased at a more rapid rate than material trends. Mr. North

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further testified with respect to some minor accounts, i.e., office furniture and equipment, tools and work equipment, laboratory equipment, etc., that average indices were applied and produced reasonably accurate results. Mr. North admitted that the Handy-Whitman Index did not contain any indices for water plants, but, nevertheless, in his studies he found that the trends of water properties are approximately the same as the trends of gas properties.

L. N. Boisen, an engineer with and a vice president of Stone & Webster Service Corporation, who has served as an engineering consultant for the company over a period of twenty-two years, testified that during those

twenty-two years the major growth of the company had occurred and, accordingly, he was thoroughly familiar with the physical characteristics of the property and its operation. Mr. Boisen testified that during 1953 he had made an inspection of the properties, and he determined that the observed depreciation of the electric utility plant was 16.5 per cent; that the observed depreciation of the gas utility plant was 29.4 per cent; and that the observed depreciation of the water utility plant was 30 per cent.

A summary of the evidence of reproduction cost new and observed depreciation, as of August 31, 1953, excluding construction work in progress, is:

	Electric Department	Gas Department	Water Department
Reproduction cost	\$58,390,190	\$21,223,091	\$1,816,390
Observed depreciation	9,566,394	6,140,752	538,692
Net reproduction cost	<u>\$48,823,796</u>	<u>\$15,082,339</u>	<u>\$1,277,698</u>

The company claimed allowances for materials and supplies and cash working capital in the amounts of \$1,759,330 for the electric department, \$436,437 for the gas department, and \$19,304 for the water department. In support of such claims, the company introduced evidence developed along customary lines of forty-five days' operating expenses, exclusive of the cost of purchased electricity and gas, plus the average monthly materials and supplies inventory, including fuel.

[1] The evidence in the record is that the company has expended on construction work in progress \$2,098,156 for additions to the electric utility plant, \$457,647 for additions to the gas utility plant, and \$10,192 for additions to the water utility plant. The

construction work in progress for the electric utility plant includes expenditures by the company in the amount of \$694,270 for additional generating capacity in the Rockford Division, which will not be placed in service until 1955, and for which interest during construction has been charged. The commission in this proceeding will not allow the inclusion of this latter item in the rate base. Interest during construction has not been charged on other items of construction work in progress in the electric utility or on any items in the gas and water utilities.

The evidence with respect to original cost, reserve for depreciation, construction work in progress, and materials and supplies and cash working

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capital of the electric, gas, and water utility departments of the company was not seriously questioned by the objectors or the staff of the commission, and the amounts hereinbefore set forth for these respective items are for the purposes hereof accepted.

[2] While the evidence concerning trended original cost and also concerning the observed depreciation may be open to challenge in some minor respects, such evidence does reflect a decrease in the purchasing power of the dollar and the change in economic conditions and is pertinent to a determination of reproduction cost. Such trended cost must be considered and given appropriate weight in arriving at the fair value of the company's utility plants.

The commission, having given consideration to all of the evidence presented in this case bearing on the several factors necessary and proper to consider in arriving at the fair value for rate-making purposes as required by the applicable statutes and court decisions, is of the opinion that, as of the date of the test period, the fair value of the company's property used and useful in rendering electric service is \$37,845,000; that the fair value of the company's property used and useful in rendering gas service is \$10,958,000; and that the fair value of the company's property used and useful in

rendering water service is \$794,000.

[3, 4] Richard N. Benjamin, president of Stone & Webster Service Corporation, Paul Coffman, president of Standard Research Consultants, and Edward B. Hall, president of Harris, Hall & Co., which has recently been consolidated with Dean Witter & Co., the company's witnesses who testified with respect to the rate of return required to enable the company to maintain its financial integrity and sell its securities in competition with securities of other utilities and industrial companies with comparable risks, concluded that the rate of return should be not less than 6.75 per cent. The commission does not agree with the conclusion of these witnesses. Having considered all the facts in this case including current economic conditions and the earnings on investments having similar risks and other elements bearing upon a fair and reasonable rate of return, the commission is of the opinion that the fair rate of return for the company's electric utility is 5.8 per cent, and for the company's gas utility is 5.95 per cent.

It appears from the record herein that the revenues on the basis of existing rates and expenses normalized for the test year ending August 31, 1953, of the electric, gas, and water utility departments of the company are:

	Electric Department	Gas Department	Water Department
Operating revenues	\$10,113,605	\$4,484,385	\$127,235
Operating revenue deductions:			
Operation and maintenance expenses	\$ 5,400,378	\$2,828,828	\$ 91,990
Depreciation	1,037,317	251,499	13,056
Taxes	1,879,508	758,213	7,049
Total operating revenue deductions	\$ 8,317,203	\$3,838,540	\$112,095
Net operating income	\$ 1,796,402	\$ 645,845	\$ 15,140

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Effective May 1, 1954, the charges to the company by Panhandle Eastern Pipe Line Company for gas resold in the Lincoln Division were reduced by order of the Federal Power Commission. Such reduction for the test year amounts to approximately \$66,500. The Purchased Gas Cost Adjustment rider as revised herein and set forth in Appendix "B" hereof [omitted herein] will make the proper adjustments in both operating revenue and operating revenue deductions to give effect to this reduction in charges to be paid by the company to Panhandle Eastern.

It appears from the evidence in the case that the company's estimated gross revenues for the test year under the proposed rates as filed by the company for the electric utility department

would be approximately \$11,082,000; for its gas utility department, approximately \$4,687,000; and for its water utility department, approximately \$157,000. The estimated gross revenue under the company's proposed rates for the electric and gas utility departments are excessive and should be reduced by \$117,000 in the electric department, and after giving effect to the reduction in gas revenues resulting from application of said Purchased Gas Cost Adjustment rider, \$250,000 in the gas department. On the basis of the revised gross revenues and the estimated revenue deductions, the amounts available for return for the test year under the modified rates established by this order are as follows:

	Electric Utility	Gas Utility	Water Utility
Estimated revenues	\$10,965,000	\$4,436,000	\$157,000
Estimated revenue deductions:			
Operation and maintenance expense	5,400,000	2,762,000	92,000
Depreciation charges	1,037,000	251,000	13,000
Taxes other than federal income tax	680,000	249,000	2,000
Federal income tax	1,653,000	522,000	20,000
Total revenue deductions	\$ 8,770,000	\$3,784,000	\$127,000
Estimated amounts available for return	\$ 2,195,000	\$ 652,000	\$ 30,000

The change in gross revenues for the test year resulting from the application of the modified rates as compared with existing rates is estimated to be an increase of approximately \$851,000 in the case of the electric department; a decrease of approximately \$48,000 in the case of the gas department; and an increase of approximately \$30,000 in the case of the water department. Such modifications represent a reduction of approximately \$367,000 from aggregate increase of \$1,201,000 that would have

resulted from the rates proposed by the company.

There are certain unjust and unreasonable provisions in some of the company's proposed rate schedules as filed. Such objectionable provisions have been eliminated or otherwise corrected in the modified rates as set forth in Appendices "A" and "B" hereto attached and hereby made a part hereof [appendices omitted herein]. In addition to corrections for said unjust and unreasonable provisions, the rates set forth in Appendices "A" and "B"

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will reduce the increased electric and gas revenues as proposed by the company to levels hereinafter found to be just and reasonable. The proposed rates for water service filed by the company will not produce an excessive return upon the fair value of the water utility plant and will be allowed to become effective.

The commission having considered

the entire record herein, having examined the rates set forth in the company's proposed schedules of rates for the electric, gas, and water utility departments, also having considered the briefs and arguments of counsel in this proceeding, and being fully advised in the premises, is of the opinion and finds: [Formal findings based on foregoing discussion omitted.]

PENNSYLVANIA SUPREME COURT

Emerald Coal & Coke Company v. Equitable Gas Company

Republic Steel Corporation, Emerald Land Company, and
W. J. Rainey, Inc., additional appellees

— Pa —, 107 A2d 734
September 27, 1954

SUIT by coal company for injunctive relief against storage of natural gas beneath coal mining area; lower court's temporary injunction upheld.

Interstate commerce, § 37 — Power of state court to enjoin storage of gas.

1. A state court has jurisdiction to enjoin the storage of natural gas beneath a coal mining area, notwithstanding that the gas company is engaged in both intrastate and interstate commerce and is subject to regulation by both federal and state commissions, where such gas is brought in from outside the state and kept in storage for local distribution and sale, p. 118.

Interstate commerce, § 37 — Natural gas — Storage — Local regulation.

2. Natural gas in storage for distribution and sale within the state is subject to local regulation even though transported to storage facilities from outside the state, p. 118.

Courts, § 19 — Conflicting commission power — Natural gas storage — Power to enjoin.

3. The fact that facilities for the storage of natural gas for local distribution and sale are subject to the state commission's regulation and control does not deprive the court from granting injunctive relief against storing the gas in a manner which is dangerous to the lives and property of others, p. 119.

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Service, § 214 — Abandonment — What constitutes — Cessation of storage of gas.

4. The cessation of use of underground facilities for the storage of natural gas in compliance with an injunction does not constitute abandonment of such facilities, since such cessation is forced and is not the result of a voluntary, intentional act of a party having the facility, right, or power to relinquish it, p. 119.

Injunction, § 54 — Parties — Lessor of land.

5. The lessors of land used by a natural gas company to store gas for local distribution are not indispensable parties in a suit against the company to enjoin the storage of such gas directly beneath a coal mining area, since the outcome of the suit would not affect the rights and duties of the parties under the lease, p. 120.

APPEARANCES: William H. Eckert, John T. Brown, John G. Buchanan, Jr., Harry W. Fawcett, Smith, Buchanan, Ingersoll, Rodewald & Eckert, Pittsburgh, W. Robert Thompson, John E. Baily, R. Wallace Maxwell, Waynesburg, for appellant; Earl F. Reed, Charles M. Thorp, Jr., William C. O'Neil, William D. Sutton, Frank J. Gaffney, Thorp, Reed & Armstrong, Pittsburgh, Walter C. Montgomery, Waynesburg, for appellees.

Before Stern, CJ., and Stearne, Jones, Bell, Musmanno, Arnold, JJ.

ARNOLD, J.: This is a bill in equity brought by the plaintiffs to obtain injunctive and other equitable relief against the defendant-appellant gas company, because of its storage of natural gas in strata directly underlying portions of plaintiffs' active coal mining areas and mined-out or gob areas connected therewith. The gas is injected under pipeline pressure of 980 pounds per square inch and the storage in question is known as the Pratt Pool.

The complaint asserts, inter alia, that the plaintiffs operate two large electrically mechanized underground coal mines in Greene county, Pennsylv-

vania, which produce metallurgical coal for the steel industry; that one of these mines has been existent since 1902 and the other since 1921; that prior to the opening of said mines the natural gas which formerly had been present in the subterranean cavities beneath the coal seams had been largely removed and the pressure thereof reduced to a minimum; that the plaintiffs' mining rights are superior in law to the storage rights subsequently acquired by the appellant-defendant; that plaintiffs' natural user of the land is being burdened and interfered with by the appellant-defendant's artificial user through the storage of gas directly beneath the plaintiffs' mines, and that this constitutes an illegal trespass; that the storage by appellant of large quantities of explosive gas, contained under a pressure of 700 pounds per square inch, places in jeopardy the lives of plaintiffs' employees and properties, and increases substantially the chance of mine explosions and fires; that among the particular hazards which the defendant's operations have created are the risk of a coal-cutting machine biting into the casing of an uncharted well connected with Pratt Pool and containing storage gas under high

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pressure, the risk of gas rising up from the storage sands through and around the deteriorated casings of abandoned wells and thence into the mine workings, and the risk that during the repeated surge of high-pressure gas, inside the Pratt Pool and withdrawal wells, passing through the coal seams and other mine areas, a lethal amount of the gas is liable to escape into the mines. The plaintiffs pray for injunctive relief and such other relief as the chancellor might be warranted in granting.

To the complaint the defendant files preliminary objections, but only eleven of these are germane to the present appeal, these raising the question of the jurisdiction of the court under the act of 1925, P.L. 23, 12 PS § 673.

Defendant contends that the court of equity has no jurisdiction over these proceedings for three reasons: (1) that jurisdiction was conferred upon the Federal Power Commission by the Natural Gas Act of 1938, 15 USCA § 717; or (2) that if the Federal Power Commission does not have said jurisdiction the same rests in the Pennsylvania Public Utility Commission; or (3) that the plaintiffs cannot proceed without joining, as necessary parties-defendant, the lessors of the lands used for storage.

[1] The defendant operates under authority of certificates of public convenience and necessity issued by the Federal Power Commission and by the Pennsylvania Public Utility Commission. It does engage in the transportation and sale of gas in interstate commerce. It is denied by the plaintiffs that gas from the Pratt Pool passes into interstate commerce. It is true that the defendant is subject

to the control and regulations of the Federal Power Commission and the Pennsylvania Public Utility Commission. But none of these considerations can oust the jurisdiction of the court of equity under the circumstances of this case. We must therefore hold that the court has power to enter into the inquiry posed by the complaint, without regard to the control or regulation exercisable by these administrative agencies. "Congress meant to create a comprehensive scheme of regulation *which would be complementary in its operation to that of the states*, without any confusion of functions." (Italics supplied.) Ohio Pub. Utilities Commission v. United Fuel Gas Co. (1943) 317 US 456, 467, 46 PUR NS 257, 264, 87 L ed 396, 63 S Ct 369, 375. Defendant does not question that equity has the power to grant the relief sought, but only contends that the jurisdiction has been lost by virtue of the two statutes.

[2] Admitting that the gas which is stored in the Pratt Pool was transported in interstate commerce, we must yet hold that once it has reached these facilities for storage it has come to rest and is then subject to local regulation. It is not stored solely as a step in further interstate transportation or sale, but is thereafter transported and sold in *areas of this commonwealth*, when demands call for its use. The cases cited by the defendant to sustain its contention that this activity is interstate are not in point, for in those cases the facilities were solely temporary interruptions in the interstate commerce of the product. Here the storage is an essentially local aspect of its business.

Moreover, the Natural Gas Act ex-

EMERALD COAL & COKE CO. v. EQUITABLE GAS CO.

cludes the activity in question from that act. Section 1(b), Chap 556, 52 Stat 821, 15 USCA § 717(b) specifically excludes from its application "the local distribution of natural gas . . . the facilities used for such distribution . . . the . . . gathering of natural gas." This language is plain and unambiguous and necessarily concludes any control by the Federal Power Commission over the facilities for storage, i.e., facilities for gathering and distributing gas locally. These are left to local regulation and control. Such facilities are not within the jurisdiction of the Federal Power Commission. See *Federal Power Commission v. Panhandle Eastern Pipe Line Co.* (1949) 337 US 498, 81 PUR NS 161, 93 L ed 1499, 69 S Ct 1251, and *Connecticut Light & P. Co. v. Federal Power Commission* (1945) 324 US 515, 58 PUR NS 1, 89 L ed 1150, 65 S Ct 749. As to the effect of the company's interstate activity in such cases upon the exemptions of the act, the Supreme Court held in *Panhandle Eastern Pipe Line Co. v. Michigan Pub. Service Commission* (1951) 341 US 329, 334, 337, 89 PUR NS 1, 4, 6, 95 L ed 993, 71 S Ct 777, 780, 781: "By this act Congress occupied only a part of the field. . . . It does not follow that because appellant is engaged in interstate commerce it is free from state regulation or free to manage essentially local aspects of its business as it pleases." To hold otherwise would be to nullify the whole provision of the exemption—a result which cannot be sustained by reason or common sense.

[3] Nor does the Pennsylvania Public Utility Law of 1937, 66 PS

§ 1101 et seq., deprive the court of jurisdiction. The act states that unless otherwise provided nothing contained therein "shall . . . abridge or impair any of the obligations, duties, or liabilities of any public utility, . . . in equity or under the existing common or statutory law of the commonwealth . . . [nor] in any way abridge or alter the existing rights of action or remedies in equity or under the common or statutory law of the commonwealth, *it being the intention that the provisions of this act shall be cumulative and in addition to such rights of action and remedies.*" 66 PS § 1357. (Italics supplied.) There is nothing in the act that ousts equity's jurisdiction in this case, and there is no question that its jurisdiction is retained. Cf. *Com. ex rel. Shumaker v. New York & Pennsylvania Co.* (1951) 367 Pa 40, 79 A2d 439; *Pennsylvania R. Co. v. Puritan Coal Mining Co.* (1915) 237 US 121, 59 L ed 867, 35 S Ct 484.

There is no question about equity's jurisdiction generally to grant relief in this case because of the dangerous nature of the acts sought to be enjoined, and in the event of accidents, to avoid a multiplicity of suits. Equity has the right and power to determine the instant case.

[4] Defendant contends that if the court is granted such power its decree can lead to a forced abandonment of its facilities, a result in the teeth of the provisions of the Natural Gas Act and of the Public Utility Law which provide that abandonment may be had only with the approval of the commission. The answer to this is that there is no abandonment directed by the court at this stage of the proceedings.

PENNSYLVANIA SUPREME COURT

Abandonment necessarily implies the voluntary or intentional act of the party having the facility, right or power to relinquish it. Here, if the court should grant full injunctive relief, the cessation would be *forced* upon defendant. See *Re Pearlman* (1944) 348 Pa 488, 35 A2d 418, 150 ALR 832. Furthermore, the court may grant relief short of what it particularly considers a cessation. See *Meth v. Meth* (1949) 360 Pa 623, 62 A2d 848.

[5] Lastly, defendant contends that the lessors of lands in which it stores gas are indispensable parties-defendant in this proceeding, having leased the lands to the defendant for the purpose of the storage. It may be observed that nowhere in the complaint is any averment made that the lessors of the land have committed any tortious act against the plaintiffs,—nor

have they. The present action is based upon a tortious "use" of the land by this defendant and in no wise attempts to attack anything creating the leasehold. As pointed out by Judge Hook writing for the court below: "This case on its merits concerns solely the acts of the defendant, its lessors should not be considered indispensable parties to this proceeding." Cf. *Maxson v. McElhinney* (1952) 370 Pa 622, 88 A2d 747. The rights and duties of the defendant and its lessors remain necessarily as provided in the leases, regardless of the outcome of this proceeding brought solely to determine whether the particular use of the lands by defendant constitutes a tortious act against the plaintiffs.

Order affirmed, costs to abide the event.

UNITED STATES COURT OF APPEALS, SEVENTH CIRCUIT

Namekagon Hydro Company

v.

Federal Power Commission

No. 11029
216 F2d 509
October 29, 1954

REVIEW of Federal Power Commission order denying power project license; order affirmed. For commission decision, see (1953) 1 PUR3d 514.

Water, § 18.2 — Power project licenses — Recreational values.

1. Recreational values are one of the benefits to be considered by the Federal Power Commission in passing upon an application for a power project license, p. 122.

NAMEKAGON HYDRO CO. v. F. P. C.

Appeal and review, § 28.1 — Federal Power Commission orders — Power project licenses.

2. The court, reviewing an order of the Federal Power Commission denying a power project license, considers the record as a whole to determine whether the findings are supported by substantial evidence, p. 122.

Water, § 5 — Federal Power Commission authority — Denial of power project license.

3. The Federal Power Commission has authority to deny an application for a power project license when certain conditions are not met, just as it has the power to grant a license when certain conditions are met, p. 124.

APPEARANCES: Glen H. Bell, Madison, Wis., E. E. Omernik, Spooner, Wis., Robert M. Rieser, Charles P. Seibold, Madison, Wis., for petitioner; John C. Mason, Attorney, Willard W. Gatchell, General Counsel, Louis C. Kaplan, Joseph E. Hayden, Attorneys, Federal Power Commission, Washington, D. C., for respondent; Roy G. Tulane, Assistant Attorney General, of Wisconsin, Vernon W. Thomson, Attorney General of Wisconsin, for intervenors; A. D. Sutherland, Fond du Lac, Wis., for Wisconsin Division of Izaak Walton League of America, Inc., amicus curiae; Fischer, Brunner & Strossenreuther, Shawano, Wis., amicus curiae.

Before Duffy CJ., and Lindley and Swaim, CJJ.

DUFFY, CJ.: This is a proceeding under § 313(b) of the Federal Power Act,¹ to review an order of the Federal Power Commission which denied the application of Namekagon Hydro Company for a license under the Federal Power Act to construct a dam and hydroelectric project on the Namekagon river in Washburn county, Wisconsin. The commission found that "the proposed project is not best adapted for beneficial public uses of

the Namekagon river, including the use of the stream for recreational purposes." [(1953) 1 PUR3d 514, 519.]

Section 10(a) of the act² provides: "All licenses issued under [this Part] shall be on the following conditions: (a) That the project adopted, . . . shall be such as in the judgment of the commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes;"

The Namekagon river is about 85 miles in length, arises in Namekagon lake in Bayfield county, Wisconsin, and flows through portions of Bayfield, Sawyer, Washburn, and Burnett counties, and joins the St. Croix river near Riverside, Wisconsin, about 6 miles east of the Wisconsin-Minnesota boundary.

It is proposed to locate the hydroelectric project on the Namekagon river in Washburn county at a point about 12 miles upstream from where the Namekagon empties into the St. Croix river. The plan calls for a dam

¹ 49 Stat 860, 16 USCA § 791a et seq.

² 49 Stat 842, 16 USCA § 803(a).

UNITED STATES COURT OF APPEALS

and powerhouse operating under a head of 25 feet. A narrow reservoir would be created extending about 6½ miles upstream from the dam. The capacity of the proposed project would be 1500 kilowatts.

Public hearings were held on the application for a license. The town of Chicog in Washburn county, the city of Spooner, officials of Washburn county, and the Trego Rod and Gun Club supported the application. The attorney general on behalf of the state of Wisconsin, the United States Fish and Wildlife Service, the Wisconsin division of the Izaak Walton League of America, and others opposed the application. The examiner made findings and recommended that the license be issued but the commission, after considering the briefs filed, and after hearing oral arguments, issued its order denying the license for the Namekagon hydroelectric project.

[1] As is often the case when an application is made for a license to build a power dam, a conflict of interests is encountered. In the instant case the proposed project has engineering feasibility, the applicant is able to finance its construction, and the areas involved could make use of the power generated. Those located in the immediate area where the dam is proposed to be built are largely favorable to its construction.

But Congress was aware that conflicting interests would, in all likelihood, be encountered when it formulated the statutory guides to be found in § 10(a) of the act. Recreational values of a project are one of the benefits to be considered by the commission. When Congress inserted the phrase "including recreational pur-

poses," in the 1935 amendment to the act, it was stated in Senate Rep No. 621, 74th Congress, 1st Sess, pages 44, 45, "In keeping with the changes made by § 205, subsection (a) is amended to provide that as a condition of the issuance of a license the project shall be such that, in the judgment of the commission will be best adapted to a comprehensive scheme 'for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce' instead of the more limited 'for the purposes of navigation.' It also adds to the other beneficial public uses to which the project may be adapted, an express provision that the commission may include consideration of recreational purposes."

[2] Section 313(b) of the Federal Power Act provides that the findings of the commission, as to the facts, shall be conclusive if supported by substantial evidence. Furthermore, before the commission may issue a license under § 4(e) of the act it must find under § 10(a) of the act that the proposed project in the judgment of the commission, will be best adapted to a comprehensive plan, etc. Obviously, Congress left it to the judgment of the commission as to whether a proposed project meets the best plan test of § 10(a). Our inquiry is, does the judgment of the commission as exercised have a rational basis in the evidence? *Montana Power Co. v. Federal Power Commission* (CCA9th 1940) 35 PUR NS 187, 112 F2d 371. In order to determine whether the findings of the commission are supported by substantial evidence we shall examine the record and consider same as a whole. *Universal Camera Corp.*

NAMEKAGON HYDRO CO. v. F. P. C.

v. National Labor Relations Board (1951) 340 US 474, 95 L ed 456, 71 S Ct 456.

For many years past the tourist business has been an important business activity in the state of Wisconsin. In the summer season many thousands of visitors come annually from various states to the northern part of Wisconsin to spend their vacations and for recreation. The state of Wisconsin spends about \$450,000 a year in advertising and publicizing this resort and recreational area of the state. In those advertisements emphasis is laid on Wisconsin's eight thousand lakes and its miles of fishing streams. Many tourists are attracted by the facilities for fishing and boating.

At the time Wisconsin became a state there were nearly 10,000 miles of free-flowing rivers within its borders. At the present time there are only 770 miles of such rivers left and the Wisconsin Conservation Commission has endeavored to preserve them in their natural state. The lower 22 miles of the Namekagon is one of those free-flowing rivers.

The 22 miles of the Namekagon river from Trego dam to its mouth is a beautiful stretch of water. The banks are, to a large extent, timbered with northern hardwoods and various species of pine. The river is accessible at a number of places to canoeists. The water in the river is uniformly shallow and the rapids are comparatively gentle. On this stretch of the river canoeing is safe for children as well as for inexperienced adults. During the summer season many groups of young people such as Boy Scouts, Girl Scouts, Future Farmers, and 4-H

Clubs have made canoe trips on this part of the river. Such trips could not very well be made after a dam had been installed as proposed in the application herein, because of the great difficulty which young people would encounter in portaging around the dam installation.

The Namekagon river has had a national reputation for many years as one of the best small mouth black bass-fishing streams, and anglers have been attracted to the river from great distances. A fast-flowing stream such as the Namekagon, where small mouth bass are propagated, furnishes the type of fishing that has always been highly esteemed, yet has been quite uncommon. However, as such habitat has become increasingly rare the bass-fishing situation in the Namekagon can be considered unique.

But perhaps the uniqueness of the river is more apparent to those who take a float trip. Many of such persons are from urban centers and to see wildlife in a natural setting is a thrill indeed. Such a float trip is exciting as well as peaceful. Passing by heavily wooded banks on either side, with no noise or sound to be heard from highways or railroads, the canoeist has the illusion of being in a forest primeval, far from civilization. Each bend of the river is watched with anticipation for a deer may be seen on the bank, or, occasionally, a black bear scurrying for the timber. There are very few, if any, comparable stretches of river left in Wisconsin. A canoe trip on the Namekagon often calls for a repeat performance, one witness testifying that he had made 90 canoe trips thereon.

Petitioner argues that after the dam

UNITED STATES COURT OF APPEALS

is constructed there will be formed a flowage $6\frac{1}{2}$ miles in length which would be suitable for both fishing and boating. But the commission had the right to consider that the elongated pond or reservoir thus formed would furnish boating and fishing quite comparable to that in 85 other lakes within a 10-mile radius of the dam site, and that there would be nothing unusual or unique about the body of water thus formed.

Under § 10(a) of the act it was the commission's responsibility to protect the public interest. The act requires that the commission exercise its judgment. We think there was substantial evidence and a rational basis for the commission's finding of existing unique recreational value in the lower 22-mile stretch of the Namekagon river which should be preserved. The commission, in fact, decided that the unique recreational features of the river were of greater public benefit than the use of the river for water-power development. We think that the commission was well within its powers in determining that even at the expense of a relatively small water-power development, the unique and special recreational values of the lower 22 miles of the Namekagon river should not be destroyed. Surely, this was not an arbitrary exercise of the commission's judgment in view of the evidence in this record. We cannot say, within the limited scope of review open to us, that the commission's findings are not warranted by the record. *United States ex rel. Chapman v. Federal Power Commission* (1953) 345 US 153, 171, 97 PUR NS 129, 97 L ed 918, 73 S Ct 609.

[3] Petitioner makes the further

point that the commission is without power to deny an application for a license. Petitioner points to a clause in § 10(a) of the act, 16 USCA § 803 (a), ". . . and if necessary in order to secure such plan the commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval."

As we understand petitioner's argument, it concedes that the commission might require repeated modifications of a project, but contends that it could never reach the point of denying the petition. The argument is ingenious, but we think it is without merit. To hold that the commission might insist upon modification in or amendments to a proposed project, but could, in no case, deny an application, might well bring about a regulatory impasse. Here, the project dam and flowage would destroy the very special and unique recreational features which the commission has determined that it was bound to protect in the public interest. No modification of the project short of its prohibition would serve the public interest. We think that it is a necessary corollary to the power of the commission to grant a license when certain conditions are met, that the commission has the right to deny such license for failure to comply.

The Wisconsin Public Service Commission contends that the Namekagon river is not a navigable water of the United States and, therefore, the commission had no jurisdiction to grant a license to applicant. This contention is consistent with the position taken by the Public Service Commission of Wisconsin in *State of Wisconsin v. Federal Power Commission* (CA7th

NAMEKAGON HYDRO CO. v. F. P. C.

1954) 5 PUR3d 510, 214 F2d 334, Namekagon river, which would be decided by this court July 2, 1954. affected by the project in question, is However, under the authority of that a navigable water of the United States. decision, we hold that section of the Affirmed.

CALIFORNIA PUBLIC UTILITIES COMMISSION

Re Bay Point Light & Power Company

Decision No. 50686, Application No. 34959
October 26, 1954

APPPLICATION by electric company for authority to increase rates; modified increase authorized.

Return, \$ 87 — Electric company.

An electric company was authorized to increase rates to produce a return of 6.9 per cent where increased operating cost and the loss of its largest customer had resulted in substantial reduction in revenues.

APPEARANCES: Mrs. E. N. Van Winkle, President, by Roy A. Wehe, for applicant; R. W. Hollis, for the commission staff.

By the COMMISSION:

Nature of Proceeding

Bay Point Light and Power Company, a California corporation, by the above-entitled application filed December 14, 1953, and as amended September 8, 1954, seeks an order of this commission authorizing increases in rates and charges for electric service rendered in Port Chicago, Clyde, and adjacent territories in Contra Costa county.

Public Hearing

A public hearing in the matter was held before examiner Emerson on September 8, 1954, at Port Chicago. Although due notice of the hearing

was given, only one customer of applicant attended the hearing.

Applicant's Position and Request

According to applicant, increasing costs of all elements of its operations during the past several years, together with the loss of its largest customer (U. S. Navy) during the year 1952, has so adversely affected its financial situation as to produce recorded losses of \$1,978 in 1951, \$6,214 in 1952, \$9,362 in 1953, and an anticipated loss of approximately \$4,670 for the year 1954.

Applicant proposes specific rate increases which, had they been in effect for the entire year 1954, it estimates would have produced a gross revenue increase of about \$18,000 and a net revenue of about \$9,000. Its basic request is that it be accorded rate relief sufficient to enable it to earn that

CALIFORNIA PUBLIC UTILITIES COMMISSION

rate of return which would result from the establishment of its electric rates at the same level of rates charged for similar service in adjoining areas served by Pacific Gas and Electric Company. In this respect applicant points out that it has not increased its rates since 1920 and has in fact reduced its rates a number of times in succeeding years, thus keeping them on a parity with those of the larger utility. In recent years, however, rates in the surrounding areas have been increased while applicant's rates have remained unchanged.

On the average and based upon estimated 1954 usage, applicant's proposed rates would increase present rates by the following percentages for the number of customers indicated. [Table omitted.]

All customers are served at regularly filed rates except the Associated Oil Company pumping plant which is served under special contract.

The costs of applicant's own purchases of power from Pacific Gas and Electric Company have increased approximately 24 per cent during the last four years.

Applicant's Operations

The electric system supplying Port Chicago, Clyde, and surrounding areas had its beginning in 1907 when the townsite of Bay Point was laid out. Presently it serves about 735 customers although during World War II it had a greater number plus the U. S. Naval Ammunition Depot as its customers. Its energy requirements are met by purchases from Pacific Gas and Electric Company at two substations having an aggregate transformer capacity of 3,000 kva. With loss of the Navy load applicant found that its requirements could be met by discontinuing one substation and now plans to retain only the 1,500-kva substation at Port Chicago.

Results of Operations

Applicant and the commission staff presented detailed exhibits and testimony respecting the results of applicant's operations over the past few years together with estimates concerning the year 1954. These are summarized as follows:

Item	Present Rates				CPUC Staff	
	Recorded 1951	Recorded 1952	Adjusted 1953	Estimated 1954	Adjusted 1953	Estimated 1954
Operating Revenues	\$119,334	\$116,887	\$81,065	\$82,930	\$81,254	\$82,980
Operating Expenses before Depreciation and Taxes	105,574	106,748	74,750	76,880	74,201	75,451
Depreciation	4,819	5,036	4,795	4,930	4,793	4,928
Taxes	10,919	11,317	5,415	5,790	5,415	5,495
Total Operating Ex- penses	121,312	123,101	84,960	87,600	84,409	85,874
Net Revenues	(1,978)	(6,214)	(3,895)	(4,670)	(3,155)	(2,894)
Rate Base (depreciation)	64,600	66,530	73,790	78,340	74,397	80,812
Rate of Return	loss	loss	loss	loss	loss	loss

(Red Figure)

RE BAY POINT LIGHT & POWER CO.

Item	Proposed Rates	
	Applicant Estimated 1954	CPUC Staff Estimated 1954
Operating Revenues	\$100,860	\$100,960
Operating Expenses before Depreciation and Taxes	76,880	75,451
Depreciation	4,930	4,928
Taxes	9,995	9,980
Total Operating Ex- penses	91,805	90,359
Net Revenues	9,055	10,601
Rate Base (depreciation)	78,340	78,832
Rate of Return	11.6%	13.4%

In many instances applicant's and the staff's detailed figures are identical. Differences respecting the year 1954 are relatively few.

Applicant and the staff are in agreement as to fixed capital. Rate base differences, however, occur primarily from the manner in which an allowance for working cash was computed. In this respect the staff included one-sixth of the annual charge for depreciation while applicant did not. We conclude the applicant's computation is the more reasonable and, therefore, will adopt applicant's depreciated rate base of \$78,340 for the average year 1954 for the purposes of this proceeding.

With respect to operating expenses, applicant and the staff differ essentially only in two items: The first is that treatment to be accorded the labor charges resulting from applicant's having to correct certain past construction in order to comply with commission's rules for overhead line construction. In this matter we are of the opinion that the staff's analysis and accounting are reasonable. The second difference concerns the amortization of the unusual expenses attendant upon removal of the now no-longer-needed substation. In this matter we shall accept

applicant's estimation and amortization period as reasonable.

Conclusions

Applicant has clearly demonstrated its need for and entitlement to increased revenues. However, the rate of return which would result from the electric rates proposed by applicant would be excessive. We shall authorize a lesser increase than that sought by applicant. Based upon a rate of return of 6.9 per cent and an average depreciated rate base of \$78,340, which rate of return and rate base we hereby find to be reasonable, a gross revenue increase of \$13,735 will be authorized. Results of operations under the rates hereinafter authorized, for the test year 1954, indicate the following:

Results of Operations

Authorized Rates

Item	Year 1954 Authorized Rates
Operating Revenues	\$96,395
Total Operating Expenses	91,000
Net Revenue	5,395
Rate Base	78,340
Rate of Return	6.9%

Authorized Rates

The rates hereinafter authorized will produce the following increases, percentagewise, for the rate schedules listed. We find such increases to be justified.

Schedule

Old	New	Description	Per Cent Increase
D-1	D-1	Domestic	19.8%
D-2	D-2	Domestic (rural)	20.6
L-1	A-1	Commercial lighting	15.7
L-2	A-2	Commercial lighting (rural)	14.9
L-3	LS	Street lighting	12.1
C-1	H-1	Commercial heating	15.4
C-3	A-3	Commercial power	17.7
P-1	P-1	Power service	17.3
P-2	P-2	Power service, demand basis	12.4
P-1	P-1	Special contract power	14.8

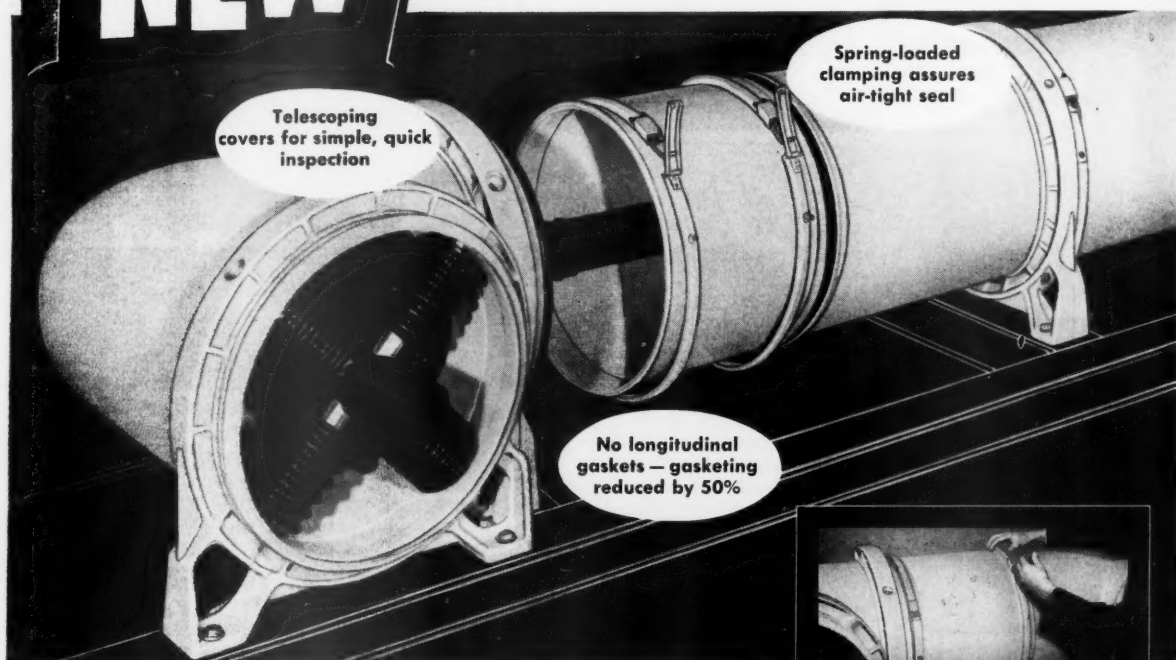
CALIFORNIA PUBLIC UTILITIES COMMISSION

Exhibit No. 3 in this proceeding is a copy of a power contract between applicant and Associated Oil Company, dated July 11, 1927. Applicant proposed to increase the rates now charged under such contract by 20 per cent. The contract, however, states that "The price at which all electric energy hereunder shall be sold and delivered to and paid for by the consumer shall be as prescribed in Schedule P-1, filed with the California

State Railroad Commission and reading as follows:" There then follows an excerpt from said schedule as it existed in 1927. The contract continues in force until terminated by six months' notice by either party. In view of the evidence we shall authorize applicant to bill Associated Oil Company at the charges contained in the new Schedule P-1 authorized herein. [Order omitted.]

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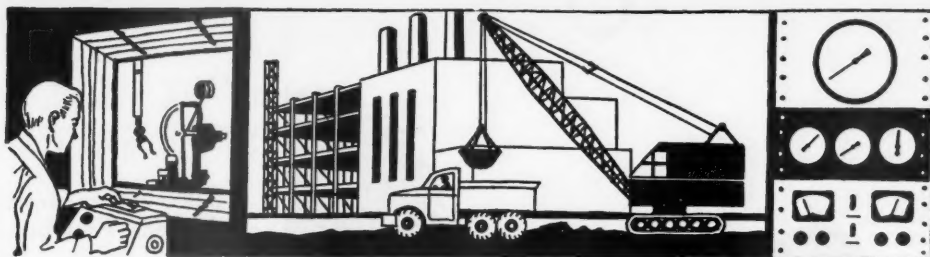
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Industrial Progress

No. Illinois Gas Has \$60,000,000 Program

NORTHERN Illinois Gas Company expects to spend an estimated \$60,000,000 for necessary construction work during the next four years, it was announced recently by Marvin Chandler, president. Approximately \$16,000,000 will be spent this year, which is an increase of nearly \$2,000,000 over 1954 expenditures.

Harry A. Kuljian Selected "Engineer of 1954"

A PROMINENT Professional Engineer, Harry A. Kuljian, president of The Kuljian Corporation of Philadelphia, was recently nominated by the "Engineers' Week" Committee of the Pennsylvania Society of Professional Engineers as the "Engineer of 1954."

Tobias Koch, chairman of the "Engineers' Week" Committee, stated that Mr. Kuljian will be cited for outstanding engineering achievements as a consultant, designer, and engineer-builder of world-wide stature.

21st Annual EEI Sales Conference Scheduled for March 28-31

THE 21st Annual Sales Conference of Edison Electric Institute will be held March 28-31, 1955 at the Edgewater Beach hotel in Chicago, it was announced by O. R. Doerr, chairman of the commercial division executive committee of EEI and vice president of Pacific Gas and Electric Company. More than 1,000 top-level sales executives of the electric light and power industry are expected to attend the Conference which takes on added importance with the anticipated keenness of competitive selling in 1955.

The Conference will begin Monday, March 28th, with a full day

Home Service meeting at which the responsibilities of the Home Service worker in the selling of electricity will be discussed. Meetings of the EEI Commercial Division's twenty committees will also be held Monday. On Tuesday, March 29th, four concurrent group meetings covering selling in the four major markets—commercial, farm, industrial and residential—will be held.

The General Sessions will be held Wednesday, March 30th, and Thursday morning, March 31st, with carefully selected speakers from the electrical and allied industries surveying the general business and economic conditions and covering the subjects of lighting for all markets, air conditioning, wiring, and appliance manufacture.

Kuhlman Appoints Western Sales Manager

WALTER H. THOMPSON has been appointed sales manager of Kuhlman Electric Company's western transformer division. He will

represent Kuhlman in the eleven western states and the El Paso area of Texas.

According to the announcement, Mr. Thompson has had many years of successful experience in contacting electrical utilities in the West, has extensive knowledge of electric operations, and a wide acquaintanceship among operating and management personnel. His office is located at 870 Tennessee street, San Francisco, California.

Niagara Mohawk Plans \$30,000,000 Unit

THE board of directors of the Niagara Mohawk Power Corporation recently announced plans for "the immediate construction" of what it termed the largest steam-electric generating unit in the state. The announcement was made by Earle J. Machold, president. Mr. Machold said the new 200,000 kilowatt unit, costing approximately \$30,000,000, would be installed in the company's steam-electric

(Continued on page 28)

Common and Preferred Dividend Notice

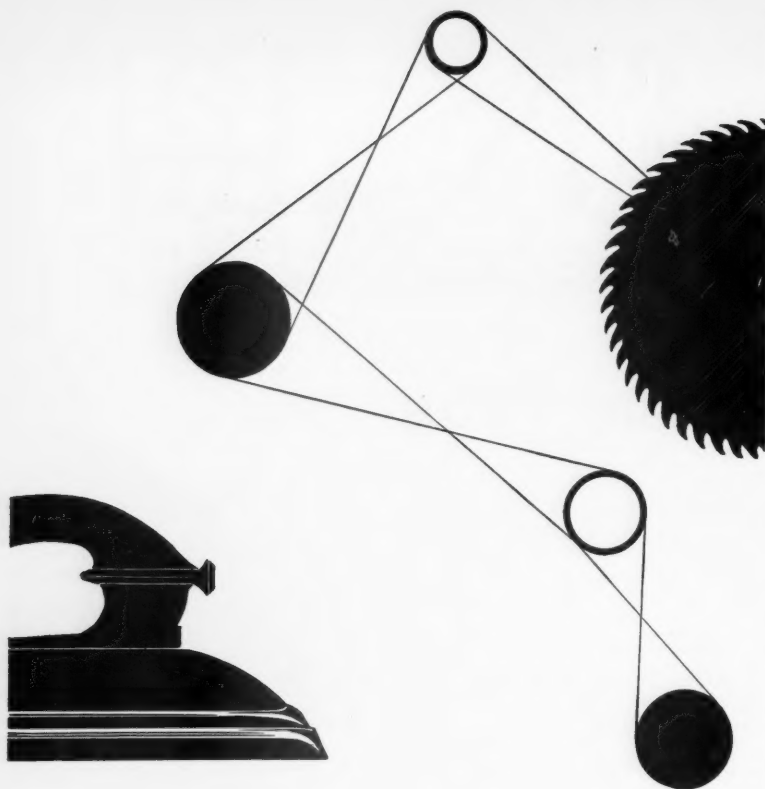
January 26, 1955

The Board of Directors of the Company has declared the following quarterly dividends, all payable on March 1, 1955, to stockholders of record at close of business February 4, 1955:

Security	Amount per Share
Preferred Stock, 5.50% First Preferred Series	\$1.37½
Preferred Stock, 4.75% Convertible Series	\$1.18¾
Preferred Stock, 4.50% Convertible Series	\$1.12½
Common Stock	\$0.35

W. H. Thompson
Secretary

TEXAS EASTERN Transmission Corporation
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INDUSTRIAL PROGRESS (Continued)

tric station in suburban Tonawanda. The new construction will bring the Niagara Mohawk's total electric generating capacity to 3,277,000 kilowatts, Mr. Machold said.

\$10,000,000 Expansion of Utah Telephone Facilities Proposed

MOUNTAIN States Telephone & Telegraph Company will spend \$10,000,000 on expansion of facilities in Utah during 1955. Eric C. Asberg, general manager of MST&T for Utah, said the program represents the largest annual expenditure by the company in Utah history.

Included in the program is the completion of the \$3,000,000 dial system for the Orem-Springville-Provo area in Utah county, central Utah, expected to be finished on April 17. Also scheduled for completion is the dial system in the Salt Lake City metropolitan district.

Ebasco Services Announces New Appointments

F. C. GARDNER, president of Ebasco Services Incorporated, has announced the appointments of A. T. Larned as consulting civil engineer, C. C. Bonin as chief civil engineer, and A. C. Clogher as an associate consulting engineer of the engineering, construction and business consulting firm.

Mr. Larned joined the organization in 1912 as a designer and checker, working on foundations for hydroelectric stations, steam stations, transmission lines and substations. Shortly he was promoted to assistant hydraulic engineer, supervising the design of hydro stations and foundations. In 1933 he was made chief civil engineer in charge of all design for hydroelectric stations, foundations and structures for steam stations and other electric and gas utility facilities, also site locations and special investigations.

Mr. Bonin joined Ebasco in 1938 as a civil engineer on plant design and operating studies of electric utility systems. For three years he was hydraulic engineer on Ebasco's coordinating staff assigned to the organization and operation of the Northwest Power Pool. Several investigations and reports covering proposed new projects were completed under his direction, among which was a field survey and report on the hydroelectric potentialities in Thailand. There followed a period when he was project

(Continued on page 30)

377 IDEAS

From Power Salesmen
Answering This Memo

Electrified INDUSTRY

The national magazine picturing ways to make production go up . . . costs down

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31 December, 1954

HAPPY SHEATHED-HEATER YEAR!

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This great idea was, as we said, handed to us; from now on it is, for hotter or cooler, Electrified Industry's baby.

We are to run a national contest among power company people for a theme or slogan to be used by the industry in direct mail and other promotion of sheathed electric heaters. Send yours in! To us.

Cartoon at right should show Reddy with a cartridge heater. Cartoon below is from January '55 E. I. Give us your slogan -- no cartoon is needed.

"GETS THE HEAT TO THE VITAL SPOT"



To win \$250 a power man needs only to send in a slogan or theme that seems best to a group of neutral and upright judges next fall.

Meanwhile every idea that is worth considering gets a five dollar prize right now and is in line for the big prize late in '55.

A contest, 30 years ago, was won with the throb: "Investigate Electric Heat." Surely you can do as well.

Have all your men send in their themes for promoting the use of sheathed electric heaters. \$5 right away -- \$250 for the winner.

Hastily,
Burr Martin



These ideas will help sell more electric power. They'll improve power companies' net revenue. Just ask your power sales people—they'll know how Electrified Industry makes money for you.

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Their Cleveland, shown above working easily along the edge of a lawn, recently completed more than 600 hours of trench digging—about a half year's work on use of this kind—with no need of repairs or parts replacement due to wear, or maintenance of any kind except normal lubrication and fueling. (One shaft was broken by improper sprocket installation during the regular operator's vacation, at a cost of \$28.)

Performance like this—plus compactness and maneuverability, big capacity, and dependability in turning out high daily footage regardless of soil and weather conditions—goes a long way toward explaining why Cleveland "Baby Diggers" have been the gas industry's choice in trenchers for well over 30 years.



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INDUSTRIAL PROGRESS (Continued)

engineer, supervising the design of dams, hydro plants and foundations. In 1950 Ebasco assigned him to Japan, and in 1951 he was made project manager for Ebasco in connection with work being performed by Overseas Consultants, Inc. In that capacity he, with other Ebasco engineers, were consulted on fifty-six hydro projects in Japan, resulting in recommendations covering changes in basic Japanese designs, introduction of more modern practices and economic methods, also the introduction of new types of structures never before attempted in the Orient. Mr. Bonin recently returned to the U. S. to undertake his new duties as Chief Civil Engineer in charge of all civil, hydraulic and structural design.

Mr. Clogher has been with Ebasco since 1909. He has held the positions of hydraulic Engineer, chief civil engineer and general engineer. Since 1940 he has been consulting civil engineer. His association with the company embraces forty-six years. The varied experience of Mr. Clogher has included all types of design and operation of hydro and steam electric stations.

Atlantic City Electric Dedicates New Turbo-Generating Unit

ATLANTIC City Electric Company added 75,000 kilowatts to its electric system recently when company directors and officers officially dedicated its newest and largest turbo-generating unit at Deepwater Station near Salem, N. J. The new addition which represents an investment of more than \$13,000,000, raises the company's generating name-plate capacity to 318,000 kilowatts.

Management Conference to Deal With Commercial Use Of Electronic Equipment

THE first national conference to deal exclusively with the commercial applications of general-purpose electronic equipment will be conducted by the American Management Association at the Hotel Statler in New York City—February 28-March 2. It is expected that more than 1,000 office, financial, personnel, insurance, and top management executives from all parts of the country will attend.

According to an announcement, speakers at the three-day meeting will cover the entire range of thinking about planning and operation of electronic computers for commercial use. The program will include compar-

(Continued on page 32)

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tive analyses of the equipment that is available; descriptions of how to set up preparatory programs and make application surveys and feasibility studies; discussion of programming problems and costs; and case studies of specific applications of the principal machines now in use.

Combined with the conference will be a concurrent exhibit of electronic data-processing equipment. Computer manufacturers will show general-purpose machines and input and output machines, including the specific equipment discussed in the applications sessions of the conference.

Sollitt Construction to Build 225,000 KW Unit for Ohio Power
CONTRACT for the building construction to house a new 225,000-kilowatt steam-electric generating unit at Ohio Power Company's Muskingum river plant at Beverly, Ohio, has been awarded to Sollitt Construction Company, South Bend, Indiana.

It is expected that the new unit, which will cost \$29,600,000, will be completed late in 1956. Upon completion of the unit, Muskingum river plant will have a total generating capability of 655,000 kilowatts—highest of any plant on the seven-state American Gas and Electric System.

Awarding of contracts for the major equipment for the unit also was announced recently. General Electric Company will furnish the turbo-generator and Babcock & Wilcox Company will supply the boiler.

New Pengo Machine for Stringing Power Line Conductors Under Tension

THE Pengo Tension Wire Stringer for stringing overhead power line conductors under tension has been announced by the Petersen Engineering Company.

The manufacturer is in production on model 5000 for all size conductors up to 556 MCM and model 6000 for all other sizes up to 954 MCM. Two additional larger size units are in the design stage. In application, the reels are placed in a cradle of hard rubber tire rollers, which are provided with brakes sufficient to keep the conductor from becoming slack between the reel and the first bull wheel. The conductor follows the multigrooves on the aluminum bull wheels which are Neoprene lined. After the proper number of turns around the two bull wheels the conductor pays out to the overhead line under tension. Both bull wheels

are provided with standard disc brakes which furnish the braking power to keep the conductor under controlled tension at all times.

The manufacturer claims that one man can easily control the brakes on up to four reels simultaneously. Only one man, generally the foreman who in most instances will be talking to his sub-foreman by radio a great distance away, is needed at the reel end of the line.

The manufacturer further claims that power companies using the new Pengo Tension Wire Stringer are stringing in their conductors under proper tension, so that when the first dead end pole is reached, the reel tender cinches up the brakes holding the conductor in its exact position. Conductors are then dead ended at the other end so that no additional sagging is necessary—after which the lines are tied in.

The manufacturer also claims that this equipment was originally designed for stringing wires over the top of energized lines. Actual use shows that the cost of stringing conductors has been so greatly reduced that it is anticipated this equipment will be used for all wire stringing operations.

Additional information is available from the Petersen Engineering Company, Manufacturers, Santa Clara, California.

\$106,000,000 Program Planned by Alabama Power

DURING 1954 the Alabama Power Company spent \$34,000,000 for additions and improvements. During the year, the company built 100 miles of urban distribution line, 525 miles of rural distribution line, and 267 miles of high voltage transmission line. It enlarged 41 distribution substations and built 22 new ones. One new transmission substation was built in Birmingham and two started in 1953 at Montgomery and Attalla were completed in 1954. Thirteen transmission substations were enlarged. Barry steam plant near Mobile was completed, and work progressed on the eighth generating unit at Gorgas.

The total number of customers served at year end increased 16,500 over a year ago to make a total of 537,500. Total retail value of electrical appliances sold in the Company's service area by all outlets during the year is estimated to be \$65,000,000. The number of heat pumps sold during the year was as great as in the

preceding two years combined. Kilowatt-hour sales for all purposes, totaling around six billion, were greater than in 1953 by about four per cent.

According to L. M. Smith, president, the company has scheduled \$106,000,000 for investment in further enlargements and improvements during the next three years.

\$140,000,000 Expansion Set By Central & South West System

ANTICIPATED continued growth in the System's load will require further heavy construction of new facilities during the next two years, according to Central and South West Corporation. The program is expected to cost in excess of \$140,000,000, including \$55,000,000 for the installation of 430,000 kilowatts of new capability and preliminary outlays for further additional capacity. Total System capability, including firm power under contract, will approximate 1,730,000 kilowatts at the close of 1956, an increase of 28 per cent in two years.

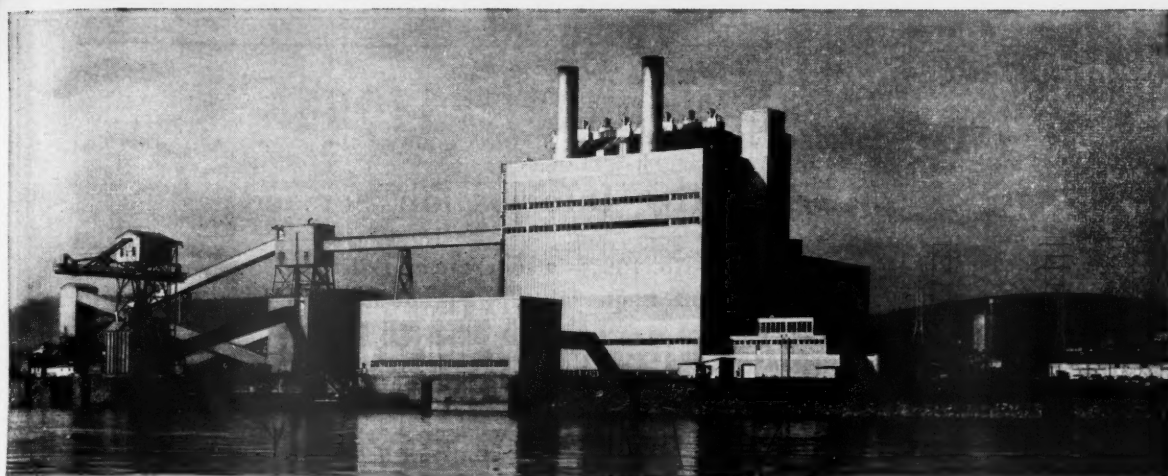
Condensing and Noncondensing Applications for Turbine-Generators Covered in G-E Booklet

GENERAL Electric Company turbine-generators, rated from 2,500-kilowatts to 40,000-kilowatts, are described in a new booklet designated GEA-3277C. Condensing and noncondensing applications for electric utilities and industrial plants as well as special turbine applications are covered in the new publication.

Cross-sections, schematic drawings, and numerous close-up and installation photographs describe applications and features of straight condensing and noncondensing steam turbines. Also detailed are condensing and noncondensing single and double-automatic - extraction, condensing double flow exhaust, and triple-automatic-extraction units.

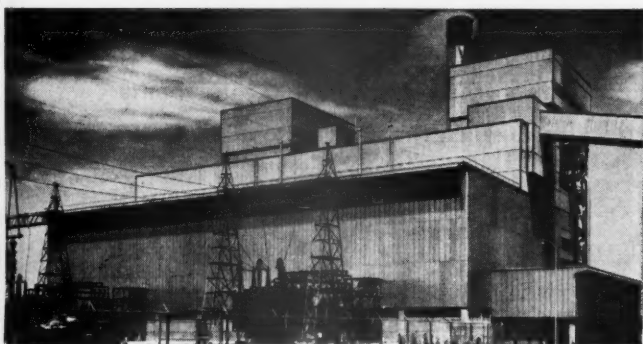
Operation of the governing system, valve gears, ventilating and cooling systems, modifications of the basic standard design to meet special customer requirements, and design and manufacturing features are among the major subjects discussed. Diagrams explain the procedure for estimating approximate steam rates for both condensing and noncondensing turbines.

The two-color, 54-page booklet can be obtained from the General Electric Company, Schenectady 5, N. Y.



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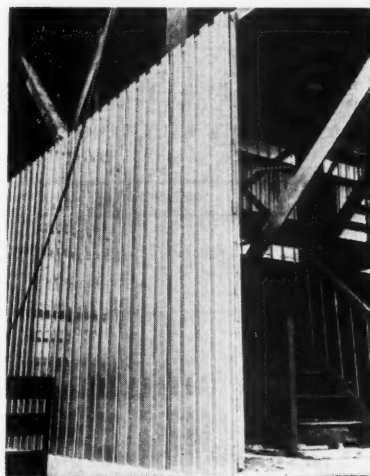


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More than 32,000 sq. ft. of Q-Panels were used to enclose the impressive Hawthorn Steam Electric Station (left) of the Kansas City, Missouri, Power and Light Company. Ebasco Services, Inc., designed and built the plant.



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Effective with the January 7, 1955 issue of the

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Weekly Letter on Utilities No. 1097—a separate and distinct feature was added in the form of a special supplement devoted to . . .

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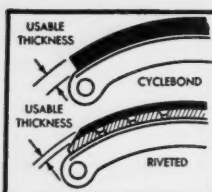
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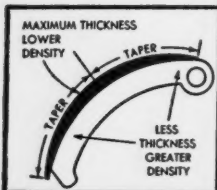
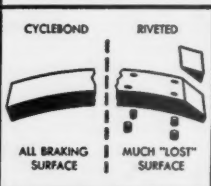


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